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1975–76 First Extraordinary Session
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89—3166

CHAPTER 1072

An act to amend Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), relating to the Los Angeles County Flood Control District.

[Approved by Governor September 25, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) is amended to read:

Sec. 2. The objects and purposes of this act are to provide for the control and conservation of the flood, storm and other waste waters of said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within said district, or to save or conserve in any manner, all or any of such waters, and to protect from damage from such flood or storm waters, the harbors, waterways, public highways and property in said district.

Said Los Angeles County Flood Control District is hereby declared to be a body corporate and politic, and as such shall have power:

1. To have perpetual succession

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real or personal property of every kind within or without the district necessary to the full exercise of its power.

5 To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as herein authorized. Construction or improvement of existing facilities may involve landscaping and other aesthetic treatment in order that the facility will be compatible with existing or planned development in the area of improvement.

6 To have and exercise the right of eminent domain, and in the manner provided by law for the condemnation of private property for public use, to take any property necessary to carry out any of the objects or purposes of this act, whether such property be already

devoted to the same use by any district or other public corporation or agency or otherwise, and may condemn any existing works or improvements in said district now used to control flood or storm waters, or to conserve such flood or storm waters or to protect any property in said district from damage from such flood or storm waters.

7. To incur indebtedness, and to issue bonds in the manner herein provided.

7a. In addition to the powers given in the next preceding subsection, to borrow money from the United States of America, any agency or department thereof, or from any nonprofit corporation, organized under the laws of this state, to which the Reconstruction Finance Corporation, a corporation organized and existing under and by virtue of an act of Congress, entitled "Reconstruction Finance Corporation Act," or other agency, or department, of the United States government, has authorized, or shall hereafter authorize, a loan to enable such nonprofit corporation to lend money to said Los Angeles County Flood Control District, for any flood control work authorized under this act, and to repay the same, in annual installments, over a period of not to exceed twenty (20) years, with interest at a rate of not to exceed four and one-fourth per centum (4¼%) per annum, payable semiannually, and, without the necessity of an election when authorized by resolution of the board of supervisors, as evidences of such indebtedness, said district is hereby authorized to execute and deliver a note, or a series of notes, or bonds, or other evidences of indebtedness, signed by the chairman of the board of supervisors of said district, which notes, bonds, or other evidences of indebtedness, shall be negotiable instruments if so declared in said resolution of the board of supervisors providing for their issuance, and said notes, bonds, or other evidences of indebtedness, may have interest coupons attached to evidence interest payments, signed by the facsimile signature of said chairman of said board. All applications for such loans shall specify the particular flood control work or projects for which the funds will be expended, and when received, the money shall be deposited in a special fund, and shall be expended for those purposes only which are described and referred to in the applications. If a surplus remains after the completion of said work, such surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness, executed as aforesaid, for the loan including interest coupons. The board of supervisors shall annually, levy a tax upon the taxable real property of said district, clearly sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure the prompt payment thereof, as may be provided by said resolution of the board of supervisors; provided, however, that the amount of taxes levied in any year, pursuant to the provisions of this subsection, shall, pro tanto, reduce the authority of the board of supervisors, during

any such year, to levy taxes under Section 14 of this act, but this proviso shall not be a limitation upon the power and duty to levy and collect taxes under this subsection. Notwithstanding any other provisions of law, interest earned on funds representing the proceeds of bonds of the district shall be deposited and retained in the reserve fund of the district to meet the principal and interest falling due on such bonds.

Notwithstanding anything in this subsection 7a to the contrary, the total amount which said district may borrow under the authority of any or all of the provisions of this subsection is limited to and shall not exceed in the aggregate the sum of four million five hundred thousand dollars ($4,500,000).

7b. The power granted in the next preceding subsection is hereby extended to authorize the issuance and sale of bonds or other evidences of indebtedness of said district to the County of Los Angeles and the purchase thereof by said county in accordance with "An act authorizing the investment and reinvestment and disposition of any surplus moneys in the treasury of any county, city and county, incorporated city or town or municipal utility district or flood control district," approved April 23, 1913, as amended; all subject to the provisions and limitations of the next preceding subsection relative to the disposition and use of funds, interest rate, period of repayment, tax rate and mode of issuance. The total amount of bonds or other evidence of indebtedness, in the aggregate, which the district may issue and sell under the authority of subsection 7a and of this subsection is limited to and shall not exceed four million five hundred thousand dollars ($4,500,000)

8. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner hereinafter provided.

9. To make contracts, and to employ for temporary services only, expert appraisers, consultants and technical advisers, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

10. To grant or otherwise convey to counties, cities and counties, cities or towns easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by said Los Angeles County Flood Control District.

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dislodged, transported, conveyed or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of said district or elsewhere.

12. To pay premiums on bonds of contractors required under any contract wherein the amount payable to the contractor exceeds five million dollars ($5,000,000); provided, that the specifications in such cases shall specifically so provide and state that the bidder shall not include in his bids the cost of furnishing the required bonds.

13. To lease, sell or dispose of any property (or any interest

therein) whenever in the judgment of said board of supervisors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased for any purpose without interfering with the use of the same for the purposes of said district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act; provided, however, that nothing herein shall authorize the board of supervisors or other governing body of the district or any officer thereof to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity or any interest or space therein except to public agencies for recreational purposes when such use is not inconsistent with the use thereof by the district for flood control and water conservation purposes; or except as hereinafter provided by Section 17 of this act; provided, however, that said district may grant and convey to the United States of America, or to any federal agency authorized to accept and pay for such land or interests in land, all lands and interests in land, now owned or hereafter acquired, lying within any channel, dam or reservoir site, improved or constructed, in whole or in part, with federal funds, upon payment to the district of sums equivalent to actual expenditures made by it in acquiring the lands and interests in land so conveyed and deemed reasonable by the Secretary of War and the Chief of Engineers.

14. To provide, by agreement with other public agencies or private persons or entities or otherwise, for the recreational use of the lands, facilities, and works of such district which shall not interfere, or be inconsistent, with the primary use and purpose of such lands, facilities, and works by such district.

15. In addition to its other powers, the district shall have the power to preserve and enhance its properties and, upon a finding by the board of supervisors that the acquisition is necessary for such purposes, to acquire, preserve, and enhance lands or interests in lands contiguous to its properties, for the protection and preservation of the scenic beauty and natural environment for such properties or such lands.

The said district by or through its board of supervisors, or other board or officers at any time succeeding to the duties or functions of its board of supervisors, is hereby authorized and empowered to warrant and defend the title to all land and interests therein so conveyed to the United States of America or to any such agency and their respective assigns; to covenant and agree to indemnify and keep indemnified and to hold and save harmless and exonerated the United States of America or any such agency, to which such lands or any interest therein are so conveyed by said district, from and against all demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any defect or defects whatsoever in the title to any such land or interest in land so conveyed by said district; to reimburse and save harmless and

exonerated the United States of America or any such agency for any and all amounts, paid, and expenses incurred, in the compromise or settlement of any demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any claim to or defect or defects whatsoever in the title to any such land or interests in land so conveyed by said district; to pay all just compensation, costs and expenses, which may be incurred in any condemnation proceeding deemed necessary by the United States of America or such agency, in order to perfect title to any such land or interests in land, including without limitation all attorneys' fees, court costs and fees, costs of abstracts and other evidences of title, and all other costs, expenses or damages incurred or suffered by the United States of America or such agency; and consent is hereby given to the bringing of suit or other legal proceedings against said district by the United States of America or such agency, as the case may be, in the proper district court of the United States, upon any cause of action arising out of any conveyance, contract or covenant made or entered into by said district pursuant to the authority granted in this act, or to enforce any claims, damages, loss or expenses arising out of or resulting from any defect whatsoever in the title to such land or any interest therein or any claims of others in or to such land or interest therein.

SEC. 2. Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) is amended to read:

Sec. 2. The objects and purposes of this act are to provide for the control and conservation of the flood, storm and other waste waters of said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within said district, or to save or conserve in any manner, all or any of such waters, and to protect from damage from such flood or storm waters, the harbors, waterways, public highways and property in said district.

Said Los Angeles County Flood Control District is hereby declared to be a body corporate and politic, and as such shall have power:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real or personal property of every kind within or without the district necessary to the full exercise of its power.

5. To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as

herein authorized. Construction or improvement of existing facilities may involve landscaping and other aesthetic treatment in order that the facility will be compatible with existing or planned development in the area of improvement.

6. To have and exercise the right of eminent domain, and in the manner provided by law for the condemnation of private property for public use, to take any property necessary to carry out any of the objects or purposes of this act, whether such property be already devoted to the same use by any district or other public corporation or agency or otherwise, and may condemn any existing works or improvements in said district now used to control flood or storm waters, or to conserve such flood or storm waters or to protect any property in said district from damage from such flood or storm waters.

7. To incur indebtedness, and to issue bonds in the manner herein provided.

7a. In addition to the powers given in the next preceding subsection, to borrow money from the United States of America, any agency or department thereof, or from any nonprofit corporation, organized under the laws of this state, to which the Reconstruction Finance Corporation, a corporation organized and existing under and by virtue of an act of Congress, entitled "Reconstruction Finance Corporation Act," or other agency, or department, of the United States government, has authorized, or shall hereafter authorize, a loan to enable such nonprofit corporation to lend money to said Los Angeles County Flood Control District, for any flood control work authorized under this act, and to repay the same, in annual installments, over a period of not to exceed twenty (20) years, with interest at a rate of not to exceed four and one-fourth per centum (4¼%) per annum, payable semiannually, and, without the necessity of an election when authorized by resolution of the board of supervisors, as evidences of such indebtedness, said district is hereby authorized to execute and deliver a note, or a series of notes, or bonds, or other evidences of indebtedness, signed by the chairman of the board of supervisors of said district, which notes, bonds, or other evidences of indebtedness, shall be negotiable instruments if so declared in said resolution of the board of supervisors providing for their issuance, and said notes, bonds, or other evidences of indebtedness, may have interest coupons attached to evidence interest payments, signed by the facsimile signature of said chairman of said board. All applications for such loans shall specify the particular flood control work or projects for which the funds will be expended, and when received, the money shall be deposited in a special fund, and shall be expended for those purposes only which are described and referred to in the applications. If a surplus remains after the completion of said work, such surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness, executed as aforesaid, for the loan including interest coupons. The board of supervisors shall annually, levy a tax upon the

taxable real property of said district, clearly sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure the prompt payment thereof, as may be provided by said resolution of the board of supervisors; provided, however, that the amount of taxes levied in any year, pursuant to the provisions of this subsection, shall, pro tanto, reduce the authority of the board of supervisors, during any such year, to levy taxes under Section 14 of this act, but this proviso shall not be a limitation upon the power and duty to levy and collect taxes under this subsection. Notwithstanding any other provisions of law, interest earned on funds representing the proceeds of bonds of the district shall be deposited and retained in the reserve fund of the district to meet the principal and interest falling due on such bonds.

Notwithstanding anything in this subsection 7a to the contrary, the total amount which said district may borrow under the authority of any or all of the provisions of this subsection is limited to and shall not exceed in the aggregate the sum of four million five hundred thousand dollars ($4,500,000).

7b. The power granted in the next preceding subsection is hereby extended to authorize the issuance and sale of bonds or other evidences of indebtedness of said district to the County of Los Angeles and the purchase thereof by said county in accordance with "An act authorizing the investment and reinvestment and disposition of any surplus moneys in the treasury of any county, city and county, incorporated city or town or municipal utility district or flood control district," approved April 23, 1913, as amended; all subject to the provisions and limitations of the next preceding subsection relative to the disposition and use of funds, interest rate, period of repayment, tax rate and mode of issuance. The total amount of bonds or other evidence of indebtedness, in the aggregate, which the district may issue and sell under the authority of subsection 7a and of this subsection is limited to and shall not exceed four million five hundred thousand dollars ($4,500,000).

8. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner hereinafter provided.

9. To make contracts, and to employ for temporary services only, expert appraisers, consultants and technical advisers, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act

10. To grant or otherwise convey to counties, cities and counties, cities or towns easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by said Los Angeles County Flood Control District.

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dislodged, transported, conveyed or carried by means of, through, in, or along the works and

structures operated or maintained hereunder and deposited upon the property of said district or elsewhere.

12. To pay premiums on bonds of contractors required under any contract wherein the amount payable to the contractor exceeds five million dollars ($5,000,000); provided, that the specifications in such cases shall specifically so provide and state that the bidder shall not include in his bids the cost of furnishing the required bonds.

13. To lease, sell or dispose of any property (or any interest therein) whenever in the judgment of said board of supervisors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased for any purpose without interfering with the use of the same for the purposes of said district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act; provided, however, that nothing herein shall authorize the board of supervisors or other governing body of the district or any officer thereof to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity or any interest or space therein except to public agencies for recreational purposes when such use is not inconsistent with the use thereof by the district for flood control and water conservation purposes; or except as hereinafter provided by Section 17 of this act; provided, however, that said district may grant and convey to the United States of America, or to any federal agency authorized to accept and pay for such land or interests in land, all lands and interests in land, now owned or hereafter acquired, lying within any channel, dam or reservoir site, improved or constructed, in whole or in part, with federal funds, upon payment to the district of sums equivalent to actual expenditures made by it in acquiring the lands and interests in land so conveyed and deemed reasonable by the Secretary of War and the Chief of Engineers.

14. To provide, by agreement with other public agencies or private persons or entities or otherwise, for the recreational use of the lands, facilities, and works of such district which shall not interfere, or be inconsistent, with the primary use and purpose of such lands, facilities, and works by such district.

15. In addition to its other powers, the district shall have the power to preserve, enhance, and add recreational features to its properties and upon a finding by the board of supervisors that the acquisition is necessary for such purposes, to acquire, preserve, enhance, and add recreational features to lands or interests in lands contiguous to its properties, for the protection, preservation, and use of the scenic beauty and natural environment for such properties or such lands and to collect admission or use fees for such recreational features where deemed appropriate.

The said district by or through its board of supervisors, or other board or officers at any time succeeding to the duties or functions of its board of supervisors, is hereby authorized and empowered to warrant and defend the title to all land and interests therein so

conveyed to the United States of America or to any such agency and their respective assigns; to convenant and agree to indemnify and keep indemnified and to hold and save harmless and exonerated the United States of America or any such agency, to which such lands or any interest therein are so conveyed by said district, from and against all demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any defect or defects whatsoever in the title to any such land or interest in land so conveyed by said district; to reimburse and save harmless and exonerated the United States of America or any such agency for any and all amounts, paid, and expenses incurred, in the compromise or settlement of any demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any claim to or defect or defects whatsoever in the title to any such land or interests in land so conveyed by said district; to pay all just compensation, costs and expenses, which may be incurred in any condemnation proceeding deemed necessary by the United States of America or such agency, in order to perfect title to any such land or interests in land, including without limitation all attorneys' fees, court costs and fees, costs of abstracts and other evidences of title, and all other costs, expenses or damages incurred or suffered by the United States of America or such agency; and consent is hereby given to the bringing of suit or other legal proceedings against said district by the United States of America or such agency, as the case may be, in the proper district court of the United States, upon any cause of action arising out of any conveyance, contract or covenant made or entered into by said district pursuant to the authority granted in this act, or to enforce any claims, damages, loss or expenses arising out of or resulting from any defect whatsoever in the title to such land or any interest therein or any claims of others in or to such land or interest therein.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill No. 920 are both chaptered and become effective January 1, 1976, both bills amend Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), and this bill is chaptered after Senate Bill No. 920, that Section 2 of the Los Angeles County Flood Control Act, as amended by Section 1 of Senate Bill No. 920 be further amended on the operative date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 2 of the Los Angeles County Flood Control Act proposed by this bill Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill No. 920 are both chaptered and become effective January 1, 1976, both bills amend Section 2 of the Los Angeles County Flood Control Act, and this bill is chaptered after Senate Bill No. 920, in which case Section 2 of this act shall become operative on the operative date of this act and Section 1 of this act shall not become operative

CHAPTER 1073

An act to amend Sections 41132, 41161, and 41191 of, to amend the heading of Chapter 3 (commencing with Section 41101) of Division 16 of, to amend the heading of Article 4 (commencing with Section 41191) of Chapter 3 of Division 16 of, to amend and renumber Sections 41192 and 41193 of, and to add Sections 41192 and 41193 to, the Food and Agricultural Code, relating to grapes.

[Approved by Governor September 24, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. The heading of Chapter 3 (commencing with Section 41101) of Division 16 of the Food and Agricultural Code is amended to read·

CHAPTER 3. GRAPES FOR WINE AND BYPRODUCTS

SEC. 2. Section 41132 of the Food and Agricultural Code is amended to read:

41132. This chapter does not affect the right of a purchaser of grapes for wine and byproducts purposes to specify a minimum percentage of soluble solids as a definition of maturity of the grapes if the price which is to be paid is to be determined other than on the basis of the soluble solid contents of the grapes.

SEC. 3. Section 41161 of the Food and Agricultural Code is amended to read:

41161. In order to prevent fraud and deception in any transaction which involves fresh grapes for wine and byproducts purposes, that requires the extraction or pressing out of the juice, in which the average percentage of soluble solids in the juice of such grapes is the basis for the amount of the purchase price, the determination of such average percentage of soluble solids shall be made by the commissioner or his deputies or his inspectors.

SEC. 4. The heading of Article 4 (commencing with Section 41191) of Chapter 3 of Division 16 of the Food and Agricultural Code is amended to read:

Article 4. Determination of Soluble Solids, Rot, and Foreign Material by the Director

SEC. 5. Section 41191 of the Food and Agricultural Code is amended to read:

41191. Notwithstanding any other provisions which are contained in this chapter and in lieu of such determinations by the commissioner, the director may make determinations of the average percentage of soluble solids in the juice of fresh grapes and certify,

by the issuance of a certificate, to marketing order advisory boards, handlers, associations, or financially interested persons the determinations and findings which are so made if both of the following conditions are satisfied:

(a) A marketing order is made effective or the director is requested to determine the average percentage of soluble solids as required by this chapter by any person that is engaged in the business of purchasing fresh grapes for wine and byproducts or processing purposes which require the extraction or pressing out of the juice of the grapes.

(b) The director and the commissioner determine that such determinations can be more effectively made by the director.

SEC. 6. Section 41192 of the Food and Agricultural Code is amended and renumbered to read:

41194. For the purpose of carrying out this article, the director may establish necessary regulations, including reasonable fees which are to be charged for such services and for the acceptance of advance fees to effectuate such determination. Any fees which are so established shall be based upon the approximate cost of the service which is rendered.

SEC. 7. Section 41193 of the Food and Agricultural Code is amended and renumbered to read:

41195. Any money which is received pursuant to this article shall be paid into the Department of Agriculture Fund to be expended in carrying out this article.

SEC. 8. Section 41192 is added to the Food and Agricultural Code, to read:

41192. In order to prevent fraud and deception in any transaction which involves fresh grapes for wine and byproducts purposes, when the percentage of rot or foreign material has any effect on the amount of the purchase price, the determination of such percentage shall be made by the director.

SEC. 9. Section 41193 is added to the Food and Agricultural Code, to read:

41193 When any transaction involves fresh grapes for wine and byproducts purposes, the purchaser shall notify the seller, in writing, prior to delivery, of the conditions relating to soluble solids, rot, and foreign materials affecting the purchase price to be paid for such grapes.

SEC. 10 No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1074

An act to amend Sections 5405, 5408 and 5412 of, and to add Sections 5364, 5365 and 5408 1 to, the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor September 25, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 5364 is added to the Business and Professions Code, to read:

5364 The provisions of this article shall apply to any advertising display which was lawfully placed and which was in existence on November 7, 1967, adjacent to an interstate or primary highway and within the limits of an incorporated area, but for which a permit has not heretofore been required. A permit which is issued pursuant to this section shall be deemed to be a renewal of an original permit for an existing advertising display.

SEC. 1.1. Section 5365 is added to the Business and Professions Code, to read:

5365. When a highway within an incorporated area is designated as an interstate or a primary highway, each advertising display maintained adjacent to such highway shall thereupon become subject to all of the provisions of this act. For purposes of applying the provisions of this act, each such display shall be considered as though it had been placed along an interstate or a primary highway during all of the time that it had been in existence. Within 30 days of notification by the director of such highway designation, the owner of each advertising display adjacent to such highway shall notify the director of the location of such display on a form prescribed by the director. The director shall issue a permit for each such advertising display on the basis of the notification from the display owner; provided that such permits will be issued and renewed only if the owner pays the fees required by subdivision (b) of Section 5485. Each permit issued pursuant to this section shall be deemed to be a renewal of an original permit for an existing advertising display.

SEC. 1.2. Section 5405 of the Business and Professions Code is amended to read:

5405. Notwithstanding any other provision of this chapter, no advertising display shall be placed or maintained within 660 feet from the edge of the right-of-way of, and the copy of which is visible from, any interstate or primary highway other than the following:

(1) Directional or other official signs or notices that are required or authorized by law, including, but not limited to, signs pertaining to natural wonders, scenic and historical attractions, and which comply with regulations which shall be promulgated by the director

relative to their lighting, size, number, spacing and such other requirements as may be appropriate to implement this chapter, which regulations shall not be inconsistent with such national standards as may be promulgated from time to time by the Secretary of Transportation of the United States pursuant to subdivision (c) of Section 131 of Title 23 of the United States Code.

(2) Advertising displays advertising the sale or lease of the property upon which they are located, provided all such advertising displays within 660 feet of the edge of the right-of-way of a bonus segment shall comply with the regulations prescribed pursuant to Sections 5251 and 5415.

(3) Advertising displays which advertise the business conducted or services rendered or the goods produced or sold upon the property upon which the advertising display is placed, if the display is upon the same side of the highway as the advertised activity; provided all such advertising displays within 660 feet of the right-of-way of a bonus segment shall comply with the regulations prescribed pursuant to Sections 5251, 5403, and 5415; and provided that no such advertising display shall be placed after January 1, 1971, if it contains flashing, intermittent or moving lights (except that part necessary to give public service information such as time, date, temperature, weather, or similar information, or a message center display as defined in paragraph (4) of this subdivision).

(4) Message center displays, provided they advertise the business conducted or services rendered or goods produced or sold upon the property upon which the display is placed. As used in this paragraph, message center displays are displays which have a changeable message which may be changed by electronic processes or by remote control. Such displays shall be considered as advertising displays for all purposes of this chapter. In addition to complying with all other permit requirements of this chapter, no person shall place such a message center display until after a finding and certification by the director that such display does not appear to constitute a hazard to traffic. All such advertising displays within 660 feet of the right-of-way of a bonus segment shall comply with the regulations prescribed pursuant to Sections 5251, 5403, and 5415.

(5) Advertising displays erected or maintained pursuant to regulations of the director, and not inconsistent with the national policy set forth in subdivision (f) of Section 131 of Title 23 of the United States Code and the standards promulgated thereunder by the Secretary of Transportation, and designed to give information in the specific interest of the traveling public.

SEC. 2. Section 5408 of the Business and Professions Code is amended to read:

5408. In addition to the advertising displays permitted by Section 5405 to be placed within 660 feet of the edge of the right-of-way of interstate or primary highways, advertising displays conforming to the following standards, and not in violation of any other provisions of this act, may be placed in such locations if placed in business areas:

(a) Advertising displays shall not be placed which exceed 1,200 square feet in area with a maximum height of 25 feet and a maximum length of 60 feet, including border and trim, and excluding base or apron supports and other structural members. This subdivision shall apply to each facing of an advertising display. The area shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which will encompass the entire advertisement. Two advertising displays not exceeding 350 square feet each may be erected in a facing. Any advertising display lawfully in existence on August 1, 1967, which exceeds 1,200 square feet in area, and which is permitted by city or county ordinance, may be maintained in existence.

(b) Advertising displays shall not be placed which are so illuminated that they interfere with the effectiveness of, or obscure any official traffic sign, device, or signal; nor shall any advertising display include or be illuminated by flashing, intermittent or moving lights (except that part necessary to give public service information such as time, date, temperature, weather, or similar information); nor shall any advertising display cause beams or rays of light to be directed at the traveled ways if such light is of such intensity or brilliance as to cause glare or to impair the vision of any driver, or to interfere with any driver's operation of a motor vehicle.

(c) Advertising displays shall not be placed in such a manner as to obstruct, or otherwise physically interfere with, an official traffic sign, signal, or device or to obstruct, or physically interfere with, the vision of drivers in approaching, merging, or intersecting traffic.

(d) No advertising display shall be placed within 500 feet from another advertising display on the same side of any portion of an interstate highway or a primary highway which is a freeway. No advertising display shall be placed within 500 feet of an interchange, or an intersection at grade, or a safety roadside rest area on any portion of an interstate highway or a primary highway which is a freeway and if the interstate or primary highway is located outside the limits of an incorporated city. No advertising display shall be placed within 300 feet from another advertising display on the same side of any portion of a primary highway which is not a freeway if that portion of the primary highway is located outside the limits of an incorporated city. No advertising display shall be placed within 100 feet from another advertising display on the same side of any portion of a primary highway which is not a freeway if that portion of the primary highway is located inside the limits of an incorporated city. But this subdivision shall not apply to advertising displays which are separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distances set forth herein is visible from the highway at any one time. This subdivision shall not prevent the erection of double-faced, back-to-back, or V-type advertising display, with a maximum of two signs per facing, as permitted in subdivision (a). This subdivision shall not apply to advertising displays permitted by Section 5405. The

minimum distance between signs shall be measured along the nearest edge of the pavement between points directly opposite the signs along each side of the highway. Any advertising display lawfully in existence on August 1, 1967, which does not conform to the provisions of this subdivision but which is permitted by city or county ordinances may be maintained in existence.

SEC. 3. Section 5408.1 is added to the Business and Professions Code, to read:

5408.1. (a) No advertising display shall be placed or maintained beyond 660 feet from the edge of the right-of-way of an interstate or primary highway if such advertising display is located outside of an urban area or within that portion of an urban area that is not a business area, is visible from the main traveled way of such highway, and is placed with the purpose of its message being read from such main traveled way, unless such advertising display is included within one of the classes of displays permitted by Section 5405 to be placed within 660 feet from the edge of such highway. Such display may be placed or maintained within the portion of an urban area that is also a business area if such display conforms to the criteria for size, spacing and lighting set forth in Section 5408.

(b) Any advertising display which was lawfully in existence on the effective date of the enactment of this section, but which does not conform to the provisions of this section, shall not be required to be removed until January 1, 1980. If federal law requires the state to pay just compensation for the removal of any such display, it may remain in place after January 1, 1980, and until just compensation is paid for its removal pursuant to Section 5412.

(c) For purposes of this section, an urban area means an area so designated in accordance with the provisions of Section 101 of Title 23 of the United States Code.

SEC. 4. Section 5412 of the Business and Professions Code is amended to read:

5412. If federal law requires the states to pay just compensation with regard to the removal of any advertising display, the owner or owners of such advertising display and the owner or owners of the land upon which such display is located, shall be paid just compensation. The sole intent of the Legislature in enacting this section is to comply with federal law, and it is otherwise not the intent of the Legislature to in any manner relinquish any of its powers relating to the removal of advertising displays under the police power.

CHAPTER 1075

An act to amend Sections 597b, 597c and 599aa of, and to add Section 597.5 to, the Penal Code, relating to animals.

[Approved by Governor September 24, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 597.5 is added to the Penal Code, to read:

597.5. (a) Any person who does any of the following is guilty of a felony and is punishable by imprisonment in a state prison not to exceed one year and one day, or by imprisonment in a county jail not to exceed one year, or by fine not to exceed fifty thousand dollars ($50,000), or by both such fine and imprisonment:

(1) Owns, possesses, keeps, or trains any dog, with the intent that such dog shall be engaged in an exhibition of fighting with another dog.

(2) For amusement or gain, causes any dog to fight with another dog, or causes any dogs to injure each other.

(3) Permits any act in violation of paragraph (1) or (2) to be done on any premises under his charge or control, or aids or abets any such act.

(b) Any person who is knowingly present, as a spectator, at any place, building, or tenement where preparations are being made for an exhibition of the fighting of dogs, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in paragraph (2) of subdivision (a), with the intent to be present at such exhibition, fighting, or injuring, is guilty of a misdemeanor.

(c) Nothing in this section shall prohibit any of the following:

(1) The use of dogs in the management of livestock, as defined by Section 14205 of the Food and Agricultural Code, by the owner of such livestock or his employees or agents or other persons in lawful custody thereof.

(2) The use of dogs in hunting as permitted by the Fish and Game Code including, but not limited to, Sections 3286, 3509, 3510, 4002, and 4756, and by the rules and regulations of the Fish and Game Commission.

(3) The training of dogs or the use of equipment in the training of dogs for any purpose not prohibited by law.

SEC. 2. Section 597b of the Penal Code is amended to read:

597b. Any person who, for amusement or gain, causes any bull, bear, cock, or other animal, not including any dog, to fight with like kind of animal or creature, or causes any such animal, including any dog, to fight with a different kind of animal or creature, or with any human being; or who, for amusement or gain, worries or injures any such bull, bear, cock, dog or other animal, or causes any such bull,

bear, cock, or other animal, not including any dog, to worry or injure each other; and any person who permits the same to be done on any premises under his charge or control; and any person who aids, abets, or is present at such fighting or worrying of such animal or creature, as a spectator, is guilty of a misdemeanor.

SEC. 3. Section 597c of the Penal Code is amended to read:

597c. Whoever owns, possesses, keeps, or trains any bird or animal, with the intent that such bird or animal shall be engaged in an exhibition of fighting, or is present at any place, building, or tenement, where preparations are being made for an exhibition of the fighting of birds or animals, with the intent to be present at such exhibition, or is present at such exhibition, is guilty of a misdemeanor. This section shall not apply to an exhibition of fighting of a dog with another dog.

SEC. 4. Section 599aa of the Penal Code is amended to read:

599aa. Any authorized officer making an arrest under Section 597.5 shall, and any authorized officer making an arrest under Section 597b or 599a may, lawfully take possession of all birds or animals and all paraphernalia, implements or other property or things used or employed, or about to be employed, in the violation of any of the provisions of this code relating to the fighting of birds or animals. He shall state to the person in charge thereof at the time of such taking his name and residence. Such officer, after taking possession of such birds, animals, paraphernalia, implements or other property or things, shall file with the magistrate before whom the complaint is made against any person so arrested an affidavit stating therein the name of the person charged in such complaint, a description of the property so taken and the time and place of the taking thereof together with the name of the person for whom the same was taken and the name of the person who claims to own such property, if known, and that the affiant has reason to believe and does believe, stating the ground of such belief, that the property so taken was used or employed, or was about to be used or employed, in such violation of such provisions of this code. He shall thereupon deliver the property so taken to such magistrate, who shall, by order in writing, place the same in the custody of an officer or other proper person named and designated in such order, to be kept by him until the conviction or final discharge of such person complained against, and shall send a copy of such order without delay to the district attorney of the county. The officer or person so named and designated in such order shall immediately thereupon assume the custody of such property and shall retain the same, subject to the order of the court before which such person so complained against may be required to appear for trial. Upon the conviction of the person so charged, all property so seized shall be adjudged by the court to be forfeited and shall thereupon be destroyed or otherwise disposed of as the court may order. In the event of the acquittal or final discharge without conviction of the person so charged such court shall, on demand, direct the delivery of such property so held

in custody to the owner thereof.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to such section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1076

An act to add Section 16868.5 to the Education Code, relating to schoolbuses.

[Approved by Governor September 24, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 16868.5 is added to the Education Code, to read:

16868.5. The governing board of any school district may enter into a contract under the terms of which the school district grants the use of any schoolbus which is owned or leased by the school district to senior citizens' groups for the purpose of providing transportation to members of senior citizens' groups; provided that:

(a) No public transportation is available within a reasonable distance to the senior citizens' group.

(b) Senior citizens of any such group reside in the territorial limits of the school district providing the transportation.

(c) The transportation of the senior citizens is limited to transportation within the State of California and does not interfere with the school district's use of schoolbuses for school transportation purposes.

(d) All schoolbus warning lights and exterior lettering or signs that identify the bus as a schoolbus are covered or removed during operation by a senior citizens' group.

(e) Mechanical condition of a schoolbus during operation by a senior citizens' group is maintained so as to meet or exceed those regulations promulgated by the Department of Education pursuant to Section 16852 governing the operation of schoolbuses.

(f) Accurate records are maintained which reflect the actual number of miles any schoolbus is driven during times of operation by a senior citizens' group, which records are to be made available to the Superintendent of Public Instruction in connection with the annual report of transportation expense made by the school district. The Superintendent of Public Instruction, in accordance with

Section 16862, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting senior citizens pursuant to this section.

(g) The total cost of the contract to the senior citizens' group is not less than the cost to the district of providing such transportation services.

CHAPTER 1077

An act making an appropriation for the acquisition of lands for the state park system, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Notwithstanding Section 5098.2 of the Public Resources Code, there is hereby appropriated from the Park and Recreation Revolving Account in the General Fund to the Department of Parks and Recreation the sum of one million dollars ($1,000,000) for the acquisition of no more than 32 acres of the Los Liones Canyon in the Santa Monica Mountains for the state park system; provided, that such funds shall not be expended on the purchase of any real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication have been complied with in the investigations and appraisals of the Department of General Services, and all material relating to implied dedication shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General. Such acquisition shall be subject to the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code).

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

The subject property is under threat of development and, if not purchased in the near future, it will be lost to the public. This is important land which could be added to the recently acquired Los Liones Canyon portion of the new Topanga State Park.

CHAPTER 1078

An act to amend Sections 441, 30208, 30212, 30764, 30765, and 30792.2 of, and to add Sections 321.1, 620.1, and 30764.5 to, the Streets and Highways Code, relating to state bridges and highways, and making an appropriation therefor.

[Approved by Governor September 25, 1975. Filed with Secretary of State September 26, 1975.]

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

SECTION 1. Section 321.1 is added to the Streets and Highways Code, to read:

321.1. The department shall construct the on and off ramps on Route 21 to Bayshore Road and Channel Road, also designated as the Benicia Viaduct ramps, when funds are made available to the department for such construction pursuant to Section 30764.5 or 30765.

SEC. 2. Section 441 of the Streets and Highways Code is amended to read:

441. Route 141 is the westerly extension of Route 680 from Route 80 to Route 37.

SEC. 3. Section 620.1 is added to the Streets and Highways Code, to read:

620.1. The department shall construct the West Seventh Street and Route 680 Interchange in Benicia when funds are made available to the department for such construction pursuant to Section 30764.5 or 30765.

SEC. 4. Section 30208 of the Streets and Highways Code is amended to read:

30208. The authority shall determine the form, conditions, and denominations of all bonds, the dates which the bonds to be sold shall bear, and the interest rate thereon which shall not exceed 8 percent per annum. The rate of interest need not be uniform for all bonds of the same authorized issue. Principal and interest of the bonds shall be payable at such places as are fixed and determined by the authority. The bonds may contain provisions for registration as to principal only and as to both principal and interest. The bonds shall be issued in coupon form with interest payable at such times as are determined by the authority, and shall mature at such times and in such amounts as the authority prescribes.

SEC. 5. Section 30212 of the Streets and Highways Code is amended to read:

30212. Bonds authorized pursuant to this chapter may be sold below the par or face value thereof, but the sale price shall not be less than that which will yield the purchaser 8 percent a year according to standard tables of bond values, and shall include the interest which has accrued thereon up to the date of delivery of the

bonds.

SEC. 6. Section 30764 of the Streets and Highways Code is amended to read:

30764. For the purpose of obtaining funds to finance the construction of the new Antioch Bridge, the authority is authorized to issue revenue bonds. Notwithstanding any other provision of law, revenue bonds sold for any purpose authorized by this article may be sold at an interest rate not exceeding 8 percent per year. Except as herein otherwise provided, the provisions of the California Toll Bridge Authority Act (commencing with Section 30000) are hereby made applicable to such revenue bonds, and the authority and the department are authorized to do any and all things pursuant to law necessary to finance and to construct the new Antioch Bridge. The authority may insert in the bond indenture, or the resolution authorizing such bonds, such conditions as it deems necessary. The authority shall pledge the revenues of the new Antioch Bridge, from and after the date it is opened to traffic, as security for the payment of such bonds.

SEC. 7. Section 30764.5 is added to the Streets and Highways Code, to read:

30764.5. In the revenue bond issue to finance the construction of a new Antioch Bridge, the authority shall include an amount sufficient to finance the construction of (a) the on and off ramps on Route 21 to Bayshore Road and Channel Road, also designated as the Benicia Viaduct ramps, pursuant to Section 321.1; and (b) the West Seventh Street and Route 680 Interchange in Benicia pursuant to Section 620.1.

SEC. 8. Section 30765 of the Streets and Highways Code is amended to read:

30765. As an alternative method of financing the new Antioch Bridge and such construction as specified in Section 30764.5, the authority may issue revenue bonds secured by a pledge of the revenues of the new Antioch Bridge and, on and after December 1, 1979, of the parallel Carquinez Bridges and the Benicia-Martinez Bridge. If the work is so financed, all revenues collected from the operation of the existing bridge and new Antioch Bridge shall be paid into the same fund as revenues derived from the Carquinez Bridges and Benicia-Martinez Bridge and shall be available for expenditure for the same purposes as the revenues from those bridges.

SEC. 9. Section 30792.2 of the Streets and Highways Code is amended to read:

30792.2. Upon completion of the studies and preliminary work provided for in Section 30792.1, the California Toll Bridge Authority shall, as promptly as feasible, issue revenue bonds to finance the construction of a new Dumbarton Bridge. Such bonds shall be secured by the revenues deposited in the San Francisco-Oakland Bay Bridge Toll Revenue Fund as provided by Chapter 1 (commencing with Section 30000) of this division and by Section 30794. Such issue of revenue bonds may, to the extent that the authority determines

feasible, include funds in an amount sufficient to widen the San Mateo-Hayward Bridge trestle. Such financing shall be undertaken only to the extent that the authority, finds on the basis of the estimates of cost, that anticipated revenue available to it will be sufficient to meet its obligations with respect to the financing of the San Francisco-Oakland Rapid Transit Tube.

As a part of the new Dumbarton Bridge, the department may include a new westerly approach connection to Route 101 at or near Marsh Road and a new westerly approach connection to Route 101 in the vicinity of Embarcadero Road. The authority may include in the revenue bond issue funds in an amount sufficient for such connections. The department shall not construct the connection to Route 101 at or near Marsh Road until its location has been approved by the City Council of Menlo Park and the San Francisco Bay Conservation and Development Commission, and shall not construct the connection to Route 101 in the vicinity of Embarcadero Road until its location has been approved by the City Councils of Menlo Park and Palo Alto, the Board of Supervisors of San Mateo County, and the San Francisco Bay Conservation and Development Commission.

Except for the construction of temporary transition lanes of less than 4,500 feet in length on the existing westerly approach to provide for a safe transition from four lanes to two lanes and of the new westerly approach connections to Route 101 at or near Marsh Road and to Route 101 in the vicinity of Embarcadero Road, the department shall not undertake any construction westerly of the west abutment of the new Dumbarton Bridge until the precise location of the replacement of the existing westerly approach has been approved by the City Council of Menlo Park and the Board of Supervisors of San Mateo County.

The Legislature hereby declares that the construction of a new Dumbarton Bridge shall not be construed as legislative approval of any particular alignment for the ultimate construction of Route 84 as a freeway west of the bridge.

CHAPTER 1079

An act to amend Section 86300 of the Government Code, relating to lobbyists.

[Approved by Governor September 25, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 86300 of the Government Code is amended to read:

86300. The provisions of this chapter are not applicable to:

(a) Any elected public official acting in his official capacity, or any employee of the State of California acting within the scope of his employment; provided that, an employee of the State of California, other than a legislative official, who attempts to influence legislative action and who would be required to register as a lobbyist except for the provisions of this subdivision shall not make gifts of more than ten dollars ($10) in a calendar month to an elected state officer or legislative official.

(b) Any newspaper or other periodical of general circulation, book publisher, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisement, which directly or indirectly urge legislative or administrative action if such newspaper, periodical, book publisher, radio or television station or individual, engages in no further or other activities in connection with urging legislative or administrative action other than to appear before a committee of the Legislature or before a state agency in support of or in opposition to such action; or

(c) A person when representing a bona fide church or religious society solely for the purpose of protecting the public right to practice the doctrines of such church.

CHAPTER 1080

An act to amend Section 1506 of the Penal Code, relating to courts.

[Approved by Governor September 25, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 1506 of the Penal Code is amended to read:

1506. An appeal may be taken to the court of appeal by the people from a final order of a superior court made upon the return of a writ of habeas corpus discharging a defendant or otherwise granting all or any part of the relief sought, in all criminal cases, excepting criminal cases where judgment of death has been rendered, and in such cases to the Supreme Court; and in all criminal cases where an application for a writ of habeas corpus has been heard and determined in a court of appeal, either the defendant or the people may apply for a hearing in the Supreme Court. Such appeal shall be taken and such application for hearing in the Supreme Court shall be made in accordance with rules to be laid down by the Judicial

Council. If the people appeal from an order granting the discharge or release of the defendant, or petition for hearing in either the court of appeal or the Supreme Court, the defendant shall be admitted to bail or released on his own recognizance or any other conditions which the court deems just and reasonable, subject to the same limitations, terms, and conditions which are applicable to, or may be imposed upon, a defendant who is awaiting trial. If the order grants relief other than a discharge or release from custody, the trial court or the court in which the appeal or petition for hearing is pending may, upon application by the people, in its discretion, and upon such conditions as it deems just stay the execution of the order pending final determination of the matter.

CHAPTER 1081

An act to amend Section 6224 of, and to add Sections 6224.1 and 6224.2 to, the Public Resources Code, relating to state lands.

[Approved by Governor September 25, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 6224 of the Public Resources Code is amended to read:

6224. (a) Except as provided in subdivision (b), any person who fails to pay to the commission any sum due within the time required by any lease or agreement shall pay a penalty to the state of 5 percent, and in addition thereto shall pay to the state interest of ½ percent per month upon the sum due from the date on which the sum became due and payable to the state until the date of payment.

(b) On and after January 1, 1976, any person who fails to pay to the commission any sum due within the time required by any lease or agreement, or who uses or occupies any lands owned or controlled by the state under the jurisdiction of the commission without a lease or other agreement and who subsequently obtains a lease or other agreement providing for the payment of back rent, shall pay a penalty to the state as prescribed in the lease or other agreement, and in addition thereto shall pay to the state interest in an amount not to exceed 1 percent per month upon the sum due from the date on which the sum became due and payable to the state, or would have become due and payable to the state had a lease or agreement been in effect, until the date of payment.

(c) The provisions of this section are in addition to any other rights or remedies of the state resulting from such failure to pay any sum due.

SEC. 2. Section 6224.1 is added to the Public Resources Code, to read:

6224.1 Any person who trespasses upon any lands owned or controlled by the state and under the jurisdiction of the commission, including, but not limited to, tidelands, submerged lands, the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, or straits, or any school lands, lieu lands, or swamp and overflowed lands, without lawful authority, is liable to the state for the amount of damages which may be assessed therefor, in any civil action, in any court having jurisdiction.

SEC 3. Section 6224.2 is added to the Public Resources Code, to read:

6224.2. Any person who appropriates or converts any mineral deposits reserved to or owned by the state and under the jurisdiction of the commission, including, but not limited to, oil and gas, other gases (including, but not limited to, nonhydrocarbon and geothermal gases), oil shale, coal, phosphate, sodium, gold, silver, alumina, silica, uranium, trona, fossils of all geological ages, metals and their compounds, alkali, alkali earth, sand, clay, gravel, salts, mineral waters, or any geothermal resources, without lawful authority, is liable to the state for treble the amount of damages which may be assessed therefor, in any civil action, in any court having jurisdiction.

CHAPTER 1082

An act to amend Sections 16021, 16022, 16023, 16054, and 16055 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 25, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 16021 of the Vehicle Code is amended to read:

16021. Financial responsibility of the driver or owner is established if the driver or owner of the vehicle involved in an accident described in Section 16000 is:

(a) A self-insurer under the provisions of this division.

(b) An insured or obligee under a form of insurance or bond which complies with the requirements of this division.

(c) The United States of America, this state, any municipality or subdivision thereof, or the lawful agent thereof.

(d) A depositor in compliance with subdivision (a) of Section 16054.2.

(e) In compliance with the requirements authorized by the department by any other manner which effectuates the purposes of this chapter.

SEC. 2. Section 16022 of the Vehicle Code is amended to read:

16022. Every driver and owner of a motor vehicle involved in an accident described in Section 16000 who fails to prove the existence of financial responsibility as required by Section 16020 at the time of such accident, shall within 60 days after such accident, file with the department, and thereafter maintain for a period of three years, proof of such financial responsibility.

If the driver, at the time of an accident, was driving, with the permission of his employer, a vehicle owned, operated, or leased by that employer, the proof of financial responsibility requirements and the suspension provisions of this chapter shall apply to such employer and shall not apply to such driver.

If such proof is established by the filing of evidence that the driver or owner procured an automobile or motor vehicle liability policy or bond, and coverage under such policy or bond terminates, the insurer or surety shall inform the department of the date of termination.

SEC. 3. Section 16023 of the Vehicle Code is amended to read:

16023. Any person who, after having filed proof of financial responsibility pursuant to Section 16022, subsequently drives any motor vehicle on a highway, and any owner of such a vehicle who, after having filed proof of financial responsibility pursuant to Section 16022, subsequently either drives the motor vehicle or who permits the driving of such vehicle on the highway, without having in full force and effect a form of financial responsibility described in Section 16021, is guilty of an infraction and shall be punished for each such offense by a fine not exceeding one hundred dollars ($100), and provided that the court may, in its discretion, impose a condition of probation by requiring the person to file proof in accordance with the provisions of Article 3 (commencing with Section 16050) of this chapter for the duration of the term of probation.

SEC. 4. Section 16054 of the Vehicle Code is amended to read:

16054. Proof may be established by filing with the department satisfactory evidence:

(a) That the owner had an automobile liability policy, a motor vehicle liability policy, or bond in effect at the time of the accident with respect to the driver or the motor vehicle involved in the accident, unless it is established that at the time of the accident the motor vehicle was being operated without the owner's permission, express or implied, or was parked by a driver who had been operating the vehicle without permission.

(b) That the driver of the motor vehicle involved in the accident, if he was not the owner of such motor vehicle, had in effect at the time of the accident an automobile liability policy or bond with respect to his operation of the motor vehicle not owned by him.

(c) That such liability as may arise from the driver's operation of the motor vehicle involved in the accident is, in the judgment of the department covered by some form of liability insurance or bond.

(d) Any automobile liability policy or bond referred to in this section shall comply with the requirements of Section 16056 of this

code and Sections 11580, 11580.1 and 11580.2 of the Insurance Code, but need not contain provisions other than those required by such sections, and shall not be governed by Chapter 3 (commencing with Section 16430) of this division.

SEC. 5. Section 16055 of the Vehicle Code is amended to read:

16055. Evidence of insurance or bond shall be submitted by the insurer or surety in conformance with the requirements of Section 16057. In the event of notice to the department by the company which issued one of the above stated policies or bonds that coverage was not in effect, then the policy or bond shall not operate to establish proof as provided for by Section 16054.

CHAPTER 1083

An act to amend Section 221 of the Fish and Game Code, relating to the Fish and Game Commission.

[Approved by Governor September 25, 1975. Filed with Secretary of State September 26, 1975.]

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

SECTION 1. Section 221 of the Fish and Game Code is amended to read:

221. The provisions of this article are effective until January 1, 1980, and thereafter shall have no force or effect.

CHAPTER 1084

An act relating to claims for reimbursement of local governmental costs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1975 Filed with Secretary of State September 26, 1975.]

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

SECTION 1. The sum of five million twenty-eight thousand dollars ($5,028,000) is hereby appropriated from the General Fund in augmentation of Item 179 of the Budget Act of 1974.

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

In certain cases, the amounts claimed by local agencies as state-mandated costs exceed the amounts appropriated for these

purposes. To avoid undue delay in reimbursing local agencies pursuant to Sections 2229 and 2231 of the Revenue and Taxation Code, this act must go into effect immediately.

CHAPTER 1085

An act to add Section 10505.5 to the Streets and Highways Code, relating to municipal improvements.

[Approved by Governor September 25, 1975. Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 10505.5 is added to the Streets and Highways Code, to read:

10505.5. If the work is abandoned by the city before work is actually started or before any materials, supplies or equipment have been furnished or used, the incidental expenses incurred previous to such abandonment, unless provision has otherwise been made therefor, shall be paid out of the city treasury, but such expense for which the city is liable and which shall have been paid by it may be charged as incidental expenses against the district benefited in any new proceeding had or taken for any work which includes substantially the same work as that which was included in the abandoned proceedings.

CHAPTER 1086

An act relating to reimbursement of local agencies, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Notwithstanding the provisions of subdivision (b) of Section 2231 of the Revenue and Taxation Code, any local agency which incurred costs as a result of the enactment of Chapter 521, 1021, 1022, 1023, or 1061 of the Statutes of 1973 may, not later than 45 days after the effective date of this section, apply for reimbursement of such costs pursuant to Section 2231 of the Revenue and Taxation Code. The State Controller shall pay all such claims within 45 days of the receipt of such claims, subject to the provisions of Section 2231 of the Revenue and Taxation Code.

SEC. 2. As of the effective date of this act, the unencumbered balance of the funds appropriated by Chapter 1061 of the Statutes of 1973 shall revert to the unappropriated balance of the General Fund.

SEC. 3. There is hereby appropriated from the General Fund to the State Controller the sum of four hundred seven thousand three hundred thirty-eight dollars ($407,338) to reimburse local agencies pursuant to this act.

SEC. 4. In enacting this act, the Legislature recognizes that some confusion as to filing deadlines and procedures understandably existed during the first year in which the program for providing state reimbursement for state-mandated local programs was in effect. Therefore, it is necessary to make this one-time allowance for inadvertence to those filing deadlines in that first year only. It is legislative intent that such allowance for late filing apply only to acts enacted during 1973 and not extend to any other year or legislative session.

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

In order that local agencies may, at the earliest possible time, be reimbursed for their increased costs resulting from the enactment of Chapters 521, 1021, 1022, 1023 and 1061 of the Statutes of 1973, it is necessary that this act take effect immediately.

CHAPTER 1087

An act to amend Sections 11350, 11351, 11352, and 11370 of the Health and Safety Code, to amend Section 1203.03 of, and to add Section 1203.07 to, the Penal Code, and to amend Sections 3052 and 3200 of the Welfare and Institutions Code, relating to probation and sentencing.

[Approved by Governor September 26, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 11350 of the Health and Safety Code is amended to read:

11350. (a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be

punished by imprisonment in the state prison for a period of not less than two years or more than 10 years.

(b) If such person has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of not less than five years or more than 20 years.

(c) If such person has been previously convicted two or more times of any offense described in subdivision (d), the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 15 years to life.

(d) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) or (c) of this section:

(1) Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(2) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

SEC. 2. Section 11351 of the Health and Safety Code is amended to read:

11351. (a) Except as otherwise provided in this division, every person who possesses for sale (1) any controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, shall be punished by imprisonment in the state prison for a period of not less than five years or more than 15 years.

(b) If such person has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of not less than 10 years.

(c) If such person has been previously convicted two or more times of any offense described in subdivision (d), the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of not less than 15 years.

(d) Any previous conviction of any of the following offenses, or of

an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) or (c) of this section:

(1) Any felony offense described in Section 11378, 11379, or 11380.

(2) Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054 or specified in subdivision (b) or (c) of Section 11055.

(3) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

SEC. 3. Section 11352 of the Health and Safety Code is amended to read:

11352. (a) Except as otherwise provided in this division, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport (1) any controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison for a period of five years to life.

(b) If such person has been previously convicted once of any offense described in subdivision (d), the previous conviction shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 10 years to life.

(c) If such person has been previously convicted two or more times of any offense described in subdivision (d), the previous convictions shall be charged in the indictment or information and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, he shall be imprisoned in the state prison for a period of 15 years to life.

(d) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall be charged pursuant to subdivision (b) or (c) of this section:

(1) Any felony offense described in Section 11378, 11379, or 11380.

(2) Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section

11055.

(3) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

SEC. 4. Section 11370 of the Health and Safety Code is amended to read:

11370. (a) Any person convicted of violating Section 11350, 11353, 11355, 11357, 11359, 11360, 11361, 11363, 11366, or 11368, or of committing any offense referred to in those sections, shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him suspended by the court, if he has been previously convicted of any offense described in subdivision (c).

(b) Any person who was 18 years of age or over at the time of the commission of the offense and is convicted for the first time of selling, furnishing, administering, or giving a controlled substance which is (1) specified in subdivision (b) or (c) of Section 11054, specified in paragraph (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or, (2) which is a narcotic drug classified in Schedule III, IV, or V, to a minor or inducing a minor to use such a controlled substance in violation of law shall not, in any case, be granted probation by the trial court or have the execution of the sentence imposed upon him suspended by the court.

(c) Any previous conviction of any of the following offenses, or of an offense under the laws of another state or of the United States which, if committed in this state, would have been punishable as such an offense, shall render a person ineligible for probation or suspension of sentence pursuant to subdivision (a) of this section:

(1) Any felony offense described in this division involving a controlled substance specified in subdivision (b) or (c) of Section 11054, specified in paragraph (10), (11), (12), or (17) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055.

(2) Any felony offense described in this division involving a narcotic drug classified in Schedule III, IV, or V.

SEC. 5. Section 1203.03 of the Penal Code is amended to read:

1203.03. (a) In any case in which a defendant is convicted of an offense punishable by imprisonment in the state prison, the court, if it concludes that a just disposition of the case requires such diagnosis and treatment services as can be provided at a diagnostic facility of the Department of Corrections, may order that defendant be placed temporarily in such facility for a period not to exceed 90 days, with the further provision in such order that the Director of the Department of Corrections report to the court his diagnosis and recommendations concerning the defendant within the 90-day period.

(b) The Director of the Department of Corrections shall, within the 90 days, cause defendant to be observed and examined and shall forward to the court his diagnosis and recommendation concerning

the disposition of defendant's case. Such diagnosis and recommendation shall be embodied in a written report and copies of the report shall be served only upon the defendant or his counsel, the probation officer, and the prosecuting attorney by the court receiving such report. After delivery of the copies of the report, the information contained therein shall not be disclosed to anyone else without the consent of the defendant. After disposition of the case, all copies of the report, except the one delivered to the defendant or his counsel, shall be filed in a sealed file and shall be available thereafter only to the defendant or his counsel, the prosecuting attorney, the court, the probation officer, or the Department of Corrections.

(c) The Department of Corrections shall designate the place to which a person referred to it under the provisions of this section shall be transported. After the receipt of any such person, the department may return the person to the referring court if the director of the department, in his discretion, determines that the staff and facilities of the department are inadequate to provide such services.

(d) The sheriff of the county in which an order is made placing a defendant in a diagnostic facility pursuant to this section, or any other peace officer designated by the court, shall execute the order placing such defendant in the center or returning him therefrom to the court. The expense of such sheriff or other peace officer incurred in executing such order is a charge upon the county in which the court is situated.

(e) It is the intention of the Legislature that the diagnostic facilities made available to the counties by this section shall only be used for the purposes designated and not in lieu of sentences to local facilities.

(f) Time spent by a defendant in confinement in a diagnostic facility of the Department of Corrections pursuant to this section or as an outpatient or inpatient of the California Rehabilitation Center shall be credited on the term of imprisonment in state prison, if any, to which defendant is sentenced in the case.

(g) In any case in which a defendant has been placed in a diagnostic facility pursuant to this section and, in the course of his confinement, he is determined to be suffering from a remediable condition relevant to his criminal conduct, the department may, with the permission of defendant, administer treatment for such condition. If such treatment will require a longer period of confinement than the period for which defendant was placed in the diagnostic facility, the Director of Corrections may file with the court which placed defendant in the facility a petition for extension of the period of confinement, to which shall be attached a writing signed by defendant giving his consent to the extension. If the court finds the petition and consent in order, it may order the extension, and transmit a copy of the order to the Director of Corrections.

SEC. 6. Section 1203.07 is added to the Penal Code, to read:

1203.07. (a) Notwithstanding the provisions of Section 1203,

probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any of the following persons:

(1) Any person who is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale one-half ounce or more of a substance containing heroin.

(2) Any person who is convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell one-half ounce or more of a substance containing heroin.

(3) Any person convicted of violating Section 11351 of the Health and Safety Code by possessing heroin for sale or convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell heroin, and who has one or more prior convictions for violating Section 11351 or Section 11352 of the Health and Safety Code.

(b) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 7. Section 3052 of the Welfare and Institutions Code is amended to read:

3052. (a) Sections 3050 and 3051 shall not apply to persons convicted of, or who have been previously convicted of murder, assault with intent to commit murder, attempt to commit murder, kidnapping, robbery, burglary in the first degree, mayhem, a violation of Section 245 or a violation of any provision of Chapter 1 (commencing with Section 261) of Title 9 of Part 1 of the Penal Code (but excepting subdivision 1 of Section 261) any felonies involving bodily harm or attempt to inflict bodily harm or any offense set forth in Article 1 (commencing with Section 11500) or 2 (commencing with Section 11530) of Chapter 5 of Division 10 of the Health and Safety Code, or in Article 4 (commencing with Section 11710) of Chapter 7 of such Division 10 for which the minimum term prescribed by law is more than five years in state prison.

(b) Notwithstanding the provisions of subdivision (a) of this section or Section 3053, the fact a person comes within Section 1203.07 P.C. does not mean that he may not be committed and treated.

SEC. 8. Section 3200 of the Welfare and Institutions Code is amended to read:

3200 If at any time the Director of Corrections is of the opinion that a person committed pursuant to Article 3 of this chapter while in outpatient status has abstained from the use of narcotics for at least two consecutive years and has otherwise complied with the conditions of his release, or that an outpatient from the California Rehabilitation Center participating in a methadone program pursuant to Section 3154 has abstained from the use of narcotics for

at least three consecutive years while on such program and has otherwise complied with the conditions of his release, he shall recommend to the Narcotic Addict Evaluation Authority that such person be discharged from the program. If the authority concurs in the opinion of the director, it shall discharge such person from the program.

If at any time the director is of the opinion that a person committed pursuant to Article 2 of this chapter while in outpatient status has abstained from the use of narcotics for at least two consecutive years and has otherwise complied with the conditions of his release, or that an outpatient from the California Rehabilitation Center participating in a methadone program pursuant to Section 3154 has abstained from the use of narcotics for at least three consecutive years while on such program and has otherwise complied with the conditions of his release, he shall so advise the Narcotic Addict Evaluation Authority. If the authority concurs in the opinion of the director it may file with the superior court of the county in which the person was committed a certificate alleging such facts and recommending to the court the discharge of the person from the program. The authority shall serve a copy of such certificate upon the district attorney of the county Upon the filing of such certificate, the court shall discharge the person from the program and may dismiss the criminal charges of which such person was convicted. Where such person was certified to the superior court from a municipal or justice court, the person shall be returned to such court, which may dismiss the original charges. In any case where the criminal charges are not dismissed and the person is sentenced thereon, time served while under commitment pursuant to Article 2 of this chapter shall be credited on such sentence. Such dismissal shall have the same force and effect as a dismissal under Section 1203.4 of the Penal Code, except the conviction is a prior conviction for purposes of Division 10 of the Health and Safety Code.

This section shall apply to persons convicted pursuant to the provisions of Section 1203.07 of the Penal Code, whether or not such person is on inpatient or outpatient status with the California Rehabilitation Center, if such person has been committed for a minimum period of 20 months

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CHAPTER 1088

An act to add Chapter 19 (commencing with Section 7450) to Division 7 of Title 1 of the Government Code, relating to retirement systems

[Approved by Governor September 25, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Chapter 19 (commencing with Section 7450) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 19. RETIREMENT SYSTEM STOCK PROXY VOTING

7450. Every local agency in this state owning common stock and whose stock is by contract managed by a fiduciary shall request such fiduciary to forward any proxies for shares owned by the agency which are to be voted in a corporate election to the governing body of such local agency.

"Local agency," for purposes of this section, includes every county, city, city and county, district, and authority, and each department, division, bureau, board, commission, agency, or instrumentality of any of the foregoing.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1089

An act to amend Section 29047 of the Public Utilities Code, relating to transit districts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 29047 of the Public Utilities Code is amended to read:

29047. The district shall be subject to regulations of the Public Utilities Commission relating to safety appliances and procedures, and the commission shall inspect all work done pursuant to this part and may make such further additions or changes necessary for the purpose of safety to employees and the general public.

The commission shall enforce the provisions of this section.

The district shall reimburse the commission for any cost incurred by the commission in regulating pursuant to this section when such regulating is performed (a) by persons not on the staff of the commission or (b) by the staff of the commission but not funded by a Budget Act appropriation. The reimbursement shall be in the amount as agreed upon by the district and the commission and approved by the Director of Finance. If the district and the commission are unable to agree as to the amount of the cost, the

Director of Finance shall determine the amount.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

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

In order that the Public Utilities Commission may be reimbursed by the San Francisco Bay Area Rapid Transit District at the earliest possible time for the commission's cost in making safety inspection of the district's facilities, so that the commission may continue such inspection as necessary, it is necessary that this act take effect immediately.

CHAPTER 1090

An act to amend Section 2 of Chapter 265 of the Statutes of 1974, relating to the state park system, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1975 Filed with Secretary of State September 26, 1975]

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

SECTION 1. Section 2 of Chapter 265 of the Statutes of 1974 is amended to read:

Sec. 2. There is hereby appropriated from the Abandoned Vehicle Trust Fund in the State Treasury to the General Fund and from the General Fund to the Department of Parks and Recreation the sum of two million one hundred fifty thousand dollars ($2,150,000) for the purposes of Article 4 (commencing with Section 5050) of Chapter 1 of Division 5 of the Public Resources Code in accordance with the following schedule.

Schedule:

(a) Development of hostel facilities in units of the state park system in any county, and for the establishment of recreational trails to and between such units $2,100,000
provided, that an amount equal to that expended for hostel facilities shall be repaid to the Abandoned Vehicle Trust Fund in the State Treasury from hostel facilities use fees.

(b) Preparation of a plan for the statewide development of hostel facilities in units of the state park system and for the establishment of recreational trails $50,000
provided, that an amount equal to that expended for the planning of hostel facilities shall be repaid to the Abandoned Vehicle Trust Fund in the State Treasury from hostel facilities use fees.

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

Restrictions on the availability of motor fuels are forcing an increasing number of Californians to turn to nonmotorized means of recreational travel. The impaction of state highways by bicyclists is creating hazardous highway conditions which can be remedied, in part, by the measures contemplated in this act, and it is, therefore, necessary that this act take immediate effect.

CHAPTER 1091

An act to amend Sections 69603, 73661, 73663, 73665, 73666, and 73667 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 69603 of the Government Code is amended to read:

69603. In the County of Sonoma there shall be five judges of the superior court, effective January 1, 1976, and six judges of the superior court, effective January 1, 1977

SEC. 2. Section 73661 of the Government Code is amended to read:

73661. There shall be two judges.

SEC. 3. Section 73663 of the Government Code is amended to read:

73663. The clerk may appoint, with the approval of the judge, one chief deputy clerk, three court clerks II, four court clerks I, and four intermediate clerk-typists.

SEC. 4. Section 73665 of the Government Code is amended to read:

73665. The marshal may appoint, with the approval of the judge and the concurrence of the board of supervisors, one chief deputy marshal, three deputy marshals, one senior clerk-typist-matron and

one marshal's clerk.

SEC. 5 Section 73666 of the Government Code is amended to read:

73666. The monthly salaries for the following positions shall be according to, and shall be increased in accordance with, the following salary schedule:

Salary Schedule

	Step A	Step B	Step C	Step D	Step E
Clerk	$1,001.10	$1,051.67	$1,103.59	$1,158 19	$1,216.77
Chief deputy clerk	678.90	712 20	748.15	785.41	824.02
Court clerk II	645.66	678.90	712.20	748.15	785.41
Court clerk I	572.39	600.36	630.99	662.97	696.19
Intermediate clerk-typist	529.83	557.75	585.71	616.35	645.66
Marshal	1,480.33				
Chief deputy marshal	931.88	978.44	1,026.39	1,076.96	1,131.54
Deputy marshal	865.32	909 24	954.48	1,001.10	1,051 67
Senior clerk-typist-matron	645.66	678.90	712.20	748.15	785.41
Marshal's clerk	557.76	585.71	616.35	645.66	678.90

SEC. 6. Section 73667 of the Government Code is amended to read:

73667. The positions enumerated in Section 73666 are deemed to be equivalent in job and salary level to certain positions in the classified service of the civil service system of the County of Humboldt, or in some instances, to such positions with a range adjustment on the salary range schedule of the County of Humboldt. The following table sets forth the court classifications with the equivalent county classifications and appropriate range adjustment, if any, shown opposite thereto:

Court classification	County classification
Clerk	Supervising clerk plus 15 ranges
Chief deputy clerk	Senior clerk plus 2 ranges
Court clerk II	Senior clerk
Court clerk I	Account clerk
Marshal	Sheriff's lieutenant minus 2 ranges
Chief deputy marshal	Deputy sheriff II
Deputy marshal	Deputy sheriff I
Senior clerk-typist-matron	Senior clerk-typist plus 2 ranges
Intermediate clerk-typist	Intermediate clerk-typist
Marshal's clerk	Intermediate clerk-typist plus 2 ranges

SEC. 7. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to Sonoma County for costs incurred by the county pursuant to Section 1 of this act. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no other reimbursement pursuant to that section nor shall there be any other appropriation made by this act, because the provisions of this act relating to municipal court personnel are in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the programs relating to municipal court personnel specified in this act.

CHAPTER 1092

An act to amend Sections 789.5, 789.7, and 789.8 of, and to add Sections 789.7a, 789.7b, 789.7c, 789.12 and 789.13 to, the Civil Code, relating to mobilehomes.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 789.5 of the Civil Code is amended to read:

789.5. (a) No tenancy or other estate at will or lease, however created on or after the effective date of this section, in a mobilehome park may be terminated except upon the landlord's giving notice in writing to the tenant, in the manner prescribed by Section 1162 of the Code of Civil Procedure, to remove from the premises within a period of not less than 60 days, to be specified in the notice. No lease shall contain any provision by which the tenant waives his rights under this section or under Sections 789.6 to 789.11, inclusive, and any such waiver shall be deemed contrary to public policy and shall be unenforceable and void. However, any lease may provide that the tenancy may be terminated upon the landlord's giving notice in writing to the tenant, in such prescribed manner, to remove from the premises within a period of more than 60 days, to be specified in the notice.

(b) This section shall apply only to mobilehomes or trailer coaches which are required to be moved under permit.

(c) This section shall not affect any rights or proceedings set forth in Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure except as hereinafter provided.

(d) After the effective date of this subdivision, a tenancy shall be terminated pursuant to this section only for one or more of the following reasons:

(1) Failure of the tenant to comply with local ordinances and state laws and regulations relating to mobilehomes within a reasonable

time after the tenant's receipt of notice of his noncompliance from the appropriate governmental agency.

(2) Conduct of the tenant, upon the mobilehome park premises, which constitutes a substantial annoyance to other tenants.

(3) Failure of the tenant to comply with reasonable rules and regulations of the mobilehome park as established by the management in writing in the rental agreement at the inception of the tenancy or as amended subsequently with the consent of the tenant, or without his consent upon six months' written notice. However, regulations applicable to recreational facilities may be amended on 60 days' written notice. The management shall give at least one written notice to the tenant of an alleged rule or regulation violation and shall furnish the tenant with seven days to adhere to the rule prior to issuing a notice of termination.

(4) Nonpayment of rent, utility charges, or reasonable incidental service charges.

(5) Condemnation or change of use of the mobilehome park. However, upon a proposed change of use of the mobilehome park, the management shall give 12 months' written advice to the tenant and prospective tenants that a proposed change of use is contemplated. If the proposed change of use actually occurs, then the notice requirements of subdivisions (a) and (f) of this section shall be followed.

(e) Meetings by tenants, or residents in the mobilehome park, or by occupants of a mobilehome in the mobilehome park, or any or all of them, relating to mobilehome living and affairs in any of the park community or recreation halls shall not be subject to prohibition by the park management if such meetings are held at reasonable hours and when the facility is not otherwise in use.

(f) The management of a mobilehome park shall specify, in the notice required by this section, the reason for the termination of any tenancy in such mobilehome park. The reason relied upon for the termination shall be set forth with specific facts so that the date, place, witnesses, and circumstances concerning the reason for termination can be determined. Neither reference to subdivision and paragraph numbers of this section, nor recital of the language of this section, nor both, shall be compliance with this subdivision.

SEC. 2. Section 789.7 of the Civil Code is amended to read:

789.7. (a) The owner of a mobilehome park or his agents shall not charge any fees to tenants other than charges for rent, utilities, or incidental reasonable service charges actually rendered.

(b) Tenants shall not be charged for keeping pets in the park unless the park management actually provides special facilities or services for pets. If special pet facilities or services are maintained the charge shall reasonably relate to the cost and maintenance of the facility or services in relation to the number of tenants owning pets.

(c) No extra charge shall be made for guests of a tenant who do not stay with the tenant more than a total of 14 days in any calendar month.

(d) No per-person fee shall be charged for the members of the tenant's immediate family, which includes the tenant, his or her spouse, and his or her children.

(e) No fee shall be charged for enforcing any of the rules and regulations of the mobilehome park

(f) The owner of a mobilehome park, or his or her agents, shall inform each prospective tenant in writing before the tenant moves into the mobilehome park of the nature of each service to be actually rendered to him or her, and the amount of the charges to be imposed for such service.

SEC. 2.5. Section 789.7a is added to the Civil Code, to read:

789.7a. Guests of a tenant who do not stay with the tenant more than a total of 14 days in any calendar month shall not be required to register with the park management.

SEC. 3. Section 789.7b is added to the Civil Code, to read:

789.7b. If the mobilehome park management provides master meter service of utilities to tenants in the mobilehome park, the following standard method of billing shall be used. For each billing period the cost of the charges for the period shall be separately stated along with the opening and closing meter reading for the tenant. The mobilehome park management shall post in a conspicuous place the prevailing residential utility rate schedule as published by the serving utility.

SEC. 3.5. Section 789.7c is added to the Civil Code, to read:

789.7c. Membership in any private club or organization which is a condition or precondition for tenancy in a mobilehome park shall not be denied to any person on the basis of race, color, religion, sex, national origin, or ancestry or on the basis of any other grounds prohibited by Section 35700 of the Health and Safety Code

SEC. 4. Section 789.8 of the Civil Code is amended to read:

789.8. There shall be no entry, installation, hookup, or landscaping charge as a condition of tenancy in a mobilehome park, however, reasonable landscaping and maintenance requirements may be included in the park rules and regulations. Notwithstanding the provisions of paragraph 3 of subdivision (d) of Section 789.5, a tenant shall not be charged for additional services actually rendered to him or her subsequent to his or her moving into the mobilehome park unless the tenant has been given 60 days' written notice of such charges by the owner of the park or his or her agents. There shall not be any transfer or selling fee required of the tenant or his agent as a condition of sale of a mobilehome within a mobilehome park, even if such mobilehome is to remain within the park, if the park management performs no service in the sale of the mobilehome. Any service performed by the park management shall be requested in writing by the tenant or his agent.

SEC. 5. Section 789.12 is added to the Civil Code, to read:

789.12. In any action arising out of Sections 789.5 to 789.11, inclusive, the prevailing party shall be entitled to reasonable attorney's fees and costs. A party shall be deemed a prevailing party

for purposes of recovering attorney fees and costs under this section where the litigation is dismissed in the person's favor prior to or during the trial, unless, in settlement or compromise, the parties otherwise agree.

SEC. 6. Section 789.13 is added to the Civil Code, to read:

789.13. In the event a tenant, resident, former tenant, or former resident of a mobilehome park is the prevailing party in a civil action against the owner of a mobilehome park, to enforce his rights under any of the provisions of Sections 789.5 to 789.11, inclusive, the tenant or resident, in addition to damages afforded under the law, may, in the discretion of the court, be awarded an amount not to exceed five hundred dollars ($500) for each willful violation by the park owner of any of the provisions of Sections 789.5 to 789.11, inclusive.

CHAPTER 1093

An act to amend Section 74131 of, and to add Section 74131.1 to, the Government Code, relating to courts in Riverside County.

[Approved by Governor September 26, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 74131 of the Government Code is amended to read:

74131. There shall be five judges in the Riverside Judicial District, which shall include the City of Riverside. There shall be four judges in the Desert Judicial District, which shall include the Cities of Palm Springs, Indio, and Blythe. There shall be two judges in the Corona Judicial District, which shall include the City of Corona. There shall be two judges in the Hemet-San Jacinto Judicial District, which shall include the Cities of Hemet, San Jacinto, Beaumont and Banning.

SEC. 2. Section 74131.1 is added to the Government Code, to read:

74131.1. Notwithstanding the provisions of Section 72400, an incumbent judge of a superseded justice court who had been elected to that office more than five years before the court was superseded by a municipal court, had served continuously since taking office and succeeds to the position of clerk, assistant clerk or deputy clerk in the municipal court that supersedes his court, shall be authorized to exercise the same authority as a traffic referee and shall serve as a traffic referee at the direction of the municipal court for which he is a clerk, assistant clerk or deputy clerk. He shall receive as clerk and referee a salary that is no lower than the salary that was last set for his position as a justice court judge.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this

section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1094

An act to add Chapter 8 (commencing with Section 1150) to Part 3 of Division 2 of the Labor Code, relating to professional strikebreakers.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Chapter 8 (commencing with Section 1150) is added to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 8. PROFESSIONAL STRIKEBREAKERS

Article 1. Findings and Declarations

1150. The Legislature hereby makes the following findings and declarations:

Relations between organized labor and management in this state have for many years been marked by a mature adherence to the principles of good faith, collective bargaining and mutual respect for the rights, interest and well-being of working people, business and industry. The importation or use in this state of professional strikebreakers as replacements during a strike or lockout endangers such sound and beneficial relations between labor and management.

Experience in this state and in other parts of this country demonstrates that the utilization of professional strikebreakers in labor disputes is inimical to the public welfare and good order, in that such practices tend to produce and prolong industrial strife, frustrate collective bargaining and encourage violence, crimes and other disorders.

The aforementioned evils are beyond the regulation of applicable federal law, and the mitigation and correction thereof requires the exercise of the police power of this state.

Article 2. Definitions

1155. Unless provided otherwise, the definitions in this article govern the construction of this chapter.

1156. "Employer" means a person, partnership, firm, corporation, association, or other entity, which employs any person

or persons to perform services for a wage or salary, and includes any person, partnership, firm, corporation, association or other entity acting as an agent of an employer, directly or indirectly.

1157. "Employee" means any person who performs services for wages or salary under a contract of employment, express or implied, for an employer.

1158. "Strike" means any concerted act of more than 50 percent of the bargaining unit employees in a lawful refusal of such employees under applicable state or federal law to perform work or services for an employer, other than work stoppages based on conflicting union jurisdictions or work stoppages unauthorized by the proper union governing body.

1159. "Lockout" means any refusal by an employer to permit any group of five or more employees to work as a result of a dispute with such employees affecting wages, hours or other terms or conditions of employment of such employees.

1160 "Professional strikebreaker" means any person other than supervisorial personnel who have been in the employ of the employer before the commencement of the strike or lockout or members of the immediate family of the owner of the place of business:

(1) Who during a period of five years immediately preceding the acts described in subdivision (2) of this section has offered himself and has been accepted on repeated occasions to two or more employers at whose places of business a strike or lockout was currently in progress, for employment for the duration of such strike or lockout for the purpose of replacing an employee or employees involved in such strike or lockout, and

(2) Who currently offers himself to an employer at whose place of business a strike or lockout is presently in progress for employment for the purpose of replacing an employee or employees involved in such strike or lockout.

As used in this section:

(a) "Repeated occasions" means on three or more occasions (exclusive of any current offer for employment in connection with a current strike or lockout).

(b) "Employment for the duration of such strike or lockout" includes employment for all or part of the duration of such strike or lockout; and, in connection therewith, includes services during all or part of such strike or lockout which began no more than one month prior to the initiation thereof, or, in the alternative, which concluded not later than one month after the termination of such strike or lockout.

(c) "Employment" means services for an employer, whether compensated by wages, salary, or any other consideration not limited to the foregoing and whether secured, arranged or paid for by an employer or any other person, partnership, firm, corporation, association or other entity.

(d) "Supervisorial personnel" means those employees who have

the authority to hire, fire, reward, or discipline other employees of the employer, or who have a history of having had the authority to effectively recommend such action.

Article 3. Professional Strikebreakers

1163. It shall be unlawful for any employer willingly and knowingly to utilize any professional strikebreaker to replace an employee or employees involved in a strike or lockout at a place of business located within this state.

1164. It shall be unlawful for any professional strikebreaker willingly and knowingly to offer himself for employment or to replace an employee or employees involved in a strike or lockout at a place of business located within this state.

Article 4. Miscellaneous

1166. Any person, partnership, firm, corporation, association or other entity, or officer or agent thereof, who shall violate any of the provisions of this chapter shall upon conviction thereof be subject to a fine not to exceed five hundred dollars ($500), or imprisonment for a period not to exceed 90 days, or both such fine and imprisonment, in the discretion of the court.

1167. If any part of the provisions of this chapter, or the application thereof, to any person or circumstance is held invalid in the final judgment of a court of competent jurisdiction, the remainder of this chapter, including the application of such part or provision to other persons or circumstances, shall not be affected thereby, and this chapter shall otherwise continue in full force and effect and shall otherwise be fully operative. To this end, the provisions of this chapter, and each of them, are hereby declared to severable.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1095

An act to amend Sections 69594, 73107, 73110, 73113, 73114, and 73122 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 69594 of the Government Code is amended to read:

69594. In the County of San Bernardino there shall be 18 judges.

SEC. 2. Section 73107 of the Government Code is amended to read:

73107. There shall be one clerk of the San Bernardino County Municipal Court District to be known as the municipal court administrator who shall be appointed by a majority vote of the council of supervising judges from among applicants certified to such council on the basis of a competitive examination pursuant to personnel rules and regulations of the County of San Bernardino. He shall receive a salary at a rate specified in range 90 of the salary schedule effective on July 5, 1975, range 92 effective on July 3, 1976, and range 93 effective on January 1, 1977. He shall be the appointing power for those positions listed in Section 73113.

SEC. 3. Section 73110 of the Government Code is amended to read:

73110. There shall be one marshal of the San Bernardino County Municipal Court District who shall be appointed by, and serve at the pleasure of, a majority of the council of supervising judges and who shall receive a salary at a rate specified in range 85 of the salary schedule effective on July 5, 1975, range 87 effective on July 3, 1976, and range 88 effective on January 1, 1977. The marshal shall be the appointing power for those positions listed in Section 73113 as being appointed by the marshal.

SEC. 4. Section 73113 of the Government Code is amended to read:

73113. The number of positions within each job classification which may be filled by appointment by the municipal court administrator and the marshal and the salary range prescribed in Section 73113.5 which constitutes the compensation for each job classification are as follows:

Appointed by the Municipal Court Administrator

Number	Salary range 7/5/75	7/3/76	1/1/77	Job classification
1	79	81	82	Assistant municipal court administrator
2	76	78	79	Clerk of the municipal court II
5	72	74	75	Clerk of the municipal court I
2	68	70	71	Assistant clerk of the

				municipal court II
3	61	63	64	Municipal court chief clerk
3	58	60	61	Assistant clerk of the municipal court I
19	57	59	60	Municipal court clerk II
1	51	53	54	Municipal court clerk I
1	51	53	54	Secretary I
4	51	53	54	Clerk IV
5	49	51	52	Account clerk II
2	53	55	56	Account clerk III
22	48	50	51	Clerk III
40	42	44	45	Clerk II
3	38	40	41	Clerk I

Appointed by the Marshal

Number	Salary Range 7/5/75	7/3/76	1/1/77	
1	76	78	79	Marshal's captain
2	73	75	76	Marshal's lieutenant
6	70	72	73	Marshal's sergeant
39	65	67	68	Deputy marshal
1	54	56	57	Administrative clerk I
8	49	51	52	Marshal's clerk II
8	44	46	47	Marshal's clerk I

SEC. 5. Section 73114 of the Government Code is amended to read:

73114. By order entered in the minutes of the court, a majority of the supervising judges may appoint up to three secretaries as the business of the court requires, to be classified as secretary II. Each shall receive a salary at a rate specified in range 54 of the salary schedule effective on July 5, 1975, range 56 effective on July 3, 1976, and range 57 effective on January 1, 1977, and be otherwise subject to the salary plan provided by Section 73113.5.

SEC. 6. Section 73122 of the Government Code is amended to read:

73122. By majority vote, the council of supervising judges may appoint one senior own-recognizance officer who shall receive a salary at a rate specified in range 69 of the salary schedule effective on July 5, 1975, range 71 effective on July 3, 1976, and range 72 effective on January 1, 1977, and two own-recognizance officers who shall receive a salary at a rate specified in range 66 of the salary schedule effective on July 5, 1975, range 68 effective on July 3, 1976, and range 69 effective on January 1, 1977. Any such appointment shall not be operative until approved by a majority vote of a committee composed of one representative of the council of

supervising judges, one representative of the superior court judges of the county, and one representative of the county sheriff.

SEC 7. The sum of one hundred eighty thousand dollars ($180,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to Section 1 of this act relating to superior court judges. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no other reimbursement pursuant to Section 2231 nor shall any other appropriation be made for any costs that may be incurred by local agencies pursuant to the other sections of this act.

CHAPTER 1096

An act to amend Section 17804 of the Business and Professions Code, relating to marriage, family, and child counselors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 17804 of the Business and Professions Code is amended to read:

17804. To qualify for a license an applicant shall have all the following qualifications:

(a) (1) At least a master's degree in marriage counseling, in social work, or in one of the behavioral sciences, including, but not limited to, sociology or psychology, obtained from a college or university accredited by the Western College Association, the Northwest Association of Secondary and Higher Schools, or an essentially equivalent accrediting agency as determined by the board.

(2) After September 1, 1975, an applicant shall have at least a master's degree in marriage, family and child counseling or a master's degree in counseling psychology or their equivalent, obtained from a school, college or university accredited by any of the above listed accrediting associations or agencies. Equivalent degrees include, but are not limited to, the master's degree in social work and the master's degree in child development and family studies.

(b) At least two years' experience, of a character approved by the board, under the direction of a person who holds the marriage, family and child counseling license or at least two years' experience of a type which in the discretion of the board is equivalent to that obtained under the direction of such a person

(c) Must be at least 18 years of age.

SEC. 2. This act is an urgency statute necessary for the

immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Inasmuch as the requirements for licensure as a marriage, family, and child counselor specified in paragraph (2) of subdivision (a) of Section 17804 of the Business and Professions Code become applicable after September 1, 1975, it is necessary that this act take effect at the earliest possible date.

CHAPTER 1097

An act to amend Sections 2364 and 2366.5 of the Education Code, relating to school districts.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 2364 of the Education Code is amended to read:

2364. The county superintendent of schools shall within 20 days after the filing of a petition under subdivision (a) or (b) of Section 2362 or subdivision (a) of Section 2363, examine it and, if he finds it to be sufficient and signed as required by law, transmit the petition to the county committee on school district organization.

If the petition is filed under subdivision (b) of Section 2363, accompanied by the statement agreeing to the transfer by the governing board of the district to which the territory is to be transferred, it shall be transmitted to the county committee on school district organization.

SEC. 2. Section 2366.5 of the Education Code is amended to read:

2366.5. (a) Any person questioning the finding of the county committee pursuant to Section 2366 that the proposed transfer of territory will not adversely affect the racial or ethnic integration of the schools of the districts affected, may appeal a decision made upon such a finding. The appeal shall be made to the State Board of Education within 30 days. The appeal shall be based upon factual and statistical evidence.

If the State Board of Education denies the appeal, the decision of the county board of supervisors or the county board of education shall stand. If the State Board of Education approves the appeal it shall review the findings of the county board of supervisors or the county board of education at a regular meeting of the board.

The State Board of Education shall notify the county committee, the county board of supervisors, or the county board of education of its decision on the appeal. For purposes of this section if the State

Board of Education approves the appeal, the county board of supervisors or the county board of education shall transmit a copy of the proceedings to the State Board of Education within 30 days after receipt of notice. The State Board of Education shall review the transcript, considering all factors involved. The State Board of Education may affirm the decision of the county board of supervisors, or the county board of education, or if it appears that inadequate consideration was given to the effect of the transfer on integration of the schools of the districts affected, it shall direct the county board of supervisors or the county board of education to reconsider its decision and for this purpose to hold another hearing. The State Board of Education shall transmit a copy of its findings and recommendations to the county board of supervisors or the county board of education and the county committee on school district organization.

(b) The governing board of any school district whose boundaries would be affected by the proposed change and the chief petitioners, if any have been designated, may appeal the decision of the county board of supervisors or the county board of education made following receipt of the report and recommendation of the county committee pursuant to Section 2365. The appeal shall be made to the State Board of Education within 30 days and shall be based upon factual evidence.

The appeal shall be heard in the same manner as a petition for a new district as provided in Section 1994. After hearing the matter, the State Board of Education shall grant or deny the appeal. If the State Board of Education denies the appeal, the decision of the county board of supervisors or the county board of education shall stand. If the State Board of Education grants the appeal, it may (1) reverse the decision of the county board of supervisors or the county board of education, (2) direct the county board of supervisors or county board of education to reconsider its decision, or (3) order an election to be held in the territory comprising the districts, the boundaries of which would be affected.

The State Board of Education shall notify the county committee, the county board of supervisors, the county board of education, the governing board of each district affected, and the chief petitioners, if any have been designated, of its decision.

CHAPTER 1098

An act relating to budgeting by public institutions of higher education.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Enrollment data are a major factor in evaluating budgetary support and capital outlay needs of the University of California and the California State University and Colleges. Enrollment comparisons among the various segments of higher education are useful only if enrollment data are based upon similar criteria. It is essential that the Legislature, in appropriating public funds for support of the University of California and the California State University and Colleges, have available to it factual comparative data concerning student enrollment and the cost of education among the various segments of public higher education.

SEC. 2. The California Postsecondary Education Commission shall develop standards and criteria for reporting the actual and estimated student enrollment at the University of California and at the California State University and Colleges. Such standards and criteria shall be uniform for the two segments to the extent feasible and desirable, so as to facilitate comparisons of the costs and needs of the two segments. Commencing with the 1977–78 fiscal year, all budgetary requests, and appropriations therefor, which are based in whole or in part upon student enrollment, or estimates thereof, shall consider utilization of the uniform standards and criteria developed and recommended by the California Postsecondary Education Commission.

CHAPTER 1099

An act to amend Section 5402 of, and to add Section 138.3 to, the Labor Code, relating to workers' compensation.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 138.3 is added to the Labor Code, to read:

138.3. The administrative director shall, with respect to all injuries, prescribe, pursuant to Section 5402, reasonable rules and regulations requiring the employer to serve notice on the injured employee that he may be entitled to benefits under this division.

SEC. 2. Section 5402 of the Labor Code is amended to read:

5402. Knowledge of such injury, obtained from any source, on the part of an employer, his managing agent, superintendent, foreman, or other person in authority, or knowledge of the assertion of a claim of injury sufficient to afford opportunity to the employer to make an investigation into the facts, is equivalent to service under Section 5400 Upon receiving such knowledge, the employer shall notify the injured employee, or in the case of death his dependents, that he may be entitled to benefits under this division. Such notice by the employer shall be within the time period and in the manner

prescribed by the administrative director for such purpose. However, such notice shall not be required when the application for benefits has been filed on behalf of the injured employee, or in the case of death, his dependents.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1100

An act to add Section 13501.5 to the Education Code, relating to public schools.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 13501.5 is added to the Education Code, to read:

13501.5. The governing board of each elementary, high, and unified school district shall provide equal salaries to all certificated employees for work performed beyond the instructional day. Such compensation, whether paid on an hourly or monthly basis, or on a flat rate basis or otherwise, shall be paid equally to employees based on the concept of like pay for comparable hours and responsibilities. Under no condition shall certificated employees who are working comparable hours and responsibilities beyond the instructional day be paid differently based on the employee's sex. Nothing in this section shall be construed as prohibiting a school district from establishing a salary schedule based on experience for persons who are employed for after-school work.

Work performed beyond the instructional day includes, but is not limited to, all activities, whether athletic or academic, performed by the employee which are not part of the normal instructional day duties.

CHAPTER 1101

An act to amend Sections 5258, 11706 and 11707 of, to add Section 11708 and Chapter 3 (commencing with Section 11709) to Part 5 of Division 2 of, and to repeal Chapter 3 (commencing with Section 11708) of Part 5 of Division 2 of, the Financial Code, relating to

savings and loan holding companies.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 5258 of the Financial Code is amended to read:

5258. Every order, decision, approval, certificate, license, permit, or the denial of any approval, certificate, license or permit, or other official act of the commissioner provided for in Articles 1 (commencing with Section 5500), 2 (commencing with Section 5550), and 4 (commencing with Section 5650) of Chapter 3, Chapter 5 (commencing with Section 6000), Sections 6450 to 6455, inclusive, Section 7616, and Article 1 (commencing with Section 9200) of Chapter 18, of Part 1 of this division, or in Part 4 (commencing with Section 11500), and Part 5 (commencing with Section 11700) of this division is subject to judicial review in accordance with law. Except for review of proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, an action or proceeding for judicial review pursuant to this section must be commenced within 60 days after the issuance of such order, decision, approval, certificate, license or permit, or within 60 days after such denial, or other official act, or in the event of a hearing held under Section 11708, within 60 days after the issuance of the final decision of the commissioner either approving or denying the application for acquisition of control.

SEC. 2. Section 11706 of the Financial Code is amended to read:

11706. (a) It is unlawful for any acquiring party to acquire control of a savings and loan association or savings and loan holding company or to acquire all the assets, or substantially all the assets, of a savings and loan holding company by the process of merger, consolidation or purchase of assets of such savings and loan holding company unless the commissioner has approved such acquisition of control within 60 days, after the date of filing with the commissioner of a complete application in accordance with regulations of the commissioner or the commissioner has failed to act within such 60-day period, in which event the application shall be deemed approved by the commissioner as of the first day following such 60-day period or such extended period. The application shall contain the following information and any additional information that the commissioner may prescribe in his regulations or determines to be as necessary or appropriate in the public interest or for the protection of savings account holders, borrowers and stockholders:

(1) The identity, character and experience of each acquiring party by whom or on whose behalf acquisition is to be made.

(2) The financial and managerial resources and future prospects of each acquiring party involved in the acquisition.

(3) The terms and conditions of any proposed acquisition and the manner in which such acquisition is to be made.

(4) The source and amount of the funds or other consideration used or to be used in making the acquisition, and, if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction and the names of the parties. However, where a source of funds is a loan made in the lender's ordinary course of business, if the person filing such statement so requests, the commissioner shall not disclose the name of the lender to the public.

(5) Any plans or proposals which any acquiring party making the acquisition may have to liquidate such savings and loan association or savings and loan holding company, to sell its assets or merge it with any company or to make any other major changes in its business or corporate structure or management.

(6) The identification of any persons employed, retained or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and brief description of the terms of such employment, retainer or arrangements for compensation.

(7) Copies of all invitations for tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

(b) When an unincorporated company is required to file the statements under paragraphs (1), (2) and (6) of subdivision (a), the commissioner may require that the information be given with respect to each partner of a partnership or limited partnership; by each member of a syndicate or group; and by each person who controls a partner or member. When an incorporated company is required to file the statements under paragraphs (1), (2) and (6) of subdivision (a), the commissioner may require that the information be given for the corporation and for each officer and director of the corporation and for each person who is directly or indirectly the beneficial owner of 25 percent or more of the outstanding voting securities of the corporation.

(c) If any tender offer, request or invitation for tenders or other agreement to acquire control is proposed to be made by means of a registration statement under the Federal Securities Act of 1933, as amended, or in circumstances requiring the disclosure of similar information under the Federal Securities Exchange Act of 1934, as amended, or in an application filed with the Federal Home Loan Bank Board requiring similar disclosure, such registration statement or application may be filed with the commissioner in lieu of the requirements of this section.

SEC. 3. Section 11707 of the Financial Code is amended to read:

11707. The commissioner may within 60 days after the date of filing of the complete application referred to in Section 11706, approve the application with such conditions as he deems

reasonable, necessary or advisable in the public interest or deny the application for acquisition of control if he finds any of the following:

(a) The acquisition would substantially lessen competition or would in any manner be in restraint of trade or would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the State of California, unless he also finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served.

(b) The poor financial condition of any acquiring party might jeopardize the financial stability of the savings and loan association or the savings and loan holding company being acquired or might prejudice the interests of the savings account holders, borrowers, or stockholders of the savings and loan association or is not in the public interest.

(c) The plan or proposal under which the acquiring party intends to liquidate the savings and loan association or the savings and loan holding company, to sell its assets or to merge it with any person or company, or to make any other major change in its business or corporate structure or management, is not fair and reasonable to the association's savings account holders, borrowers, or stockholders or is not in the public interest.

(d) The competence, experience, and integrity of any acquiring party who would control the operation of the savings and loan association or savings and loan holding company indicate that approval would not be in the interest of the association's savings account holders, borrowers, or stockholders or in the public interest.

SEC. 4. Chapter 3 (commencing with Section 11708) of Part 5 of Division 2 of the Financial Code is repealed.

SEC. 5. Section 11708 is added to the Financial Code, to read:

11708. After the decision of the commissioner, either approving or denying the application for acquisition of control, upon the filing with the commissioner within 30 days after the date of the decision of a written request for a hearing by any person prejudiced by his decision, the commissioner within 30 days after the written request for the hearing is filed or any extension of the period with consent of the requesting party, shall hold a hearing after which he shall affirm, modify, or reverse his decision.

SEC. 6. Chapter 3 (commencing with Section 11709) is added to Part 5 of Division 2 of the Financial Code, to read:

CHAPTER 3. PENALTIES

11709. Any person who willfully violates any provision of this part, or any regulation or order thereunder, is guilty of a misdemeanor and shall upon conviction be fined not more than one thousand dollars ($1,000) for each day during which the violation continues.

CHAPTER 1102

An act to amend Section 72602, and to repeal and add Section 72602.15, of the Government Code, relating to municipal courts.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 72602 of the Government Code is amended to read:

72602. Each of the Los Angeles County municipal courts established in judicial districts shall have the number of judges set out below opposite the name of the judicial district over which such court has jurisdiction:

Whittier Municipal Court District	3
San Antonio Municipal Court District	3
East Los Angeles Municipal Court District	3
Inglewood Municipal Court District	3
South Bay Municipal Court District	5
Compton Municipal Court District	6
Downey Municipal Court District	2
Los Angeles Municipal Court District	64
Santa Anita Municipal Court District	1
Alhambra Municipal Court District	3
Los Cerritos Municipal Court District	2
Long Beach Municipal Court District	5
Beverly Hills Municipal Court District	3
Santa Monica Municipal Court District	3
Burbank Municipal Court District	2
Glendale Municipal Court District	2
Pasadena Municipal Court District	4
Rio Hondo Municipal Court District	4
Pomona Municipal Court District	3
South Gate Municipal Court District	1
Citrus Judicial District	4
Antelope Municipal Court District	1
Culver Municipal Court District	2
Newhall Municipal Court District	2
Malibu Municipal Court District	1

SEC. 2. Section 72602.15 of the Government Code is repealed.

SEC. 3. Section 72602.15 is added to the Government Code, to read:

72602.15. Notwithstanding the provisions of Section 72602, the San Antonio Municipal Court District and South Gate Municipal Court District are consolidated into the Southeast Municipal Court District which shall have five judges.

The officers and attachés of the San Antonio Municipal Court District and the South Gate Municipal Court District employed by such districts on the operative date of this section shall be the officers and attachés of the Southeast Municipal Court District with all of the rights and benefits to which they were entitled as employees of said districts. Notwithstanding any other provision of this code, the Chief Deputy Clerk of the Southeast Municipal Court District who on the operative date of this section was the Clerk/Administrative Officer of either the San Antonio Municipal Court District or the South Gate Municipal Court District shall receive the salary to which he was entitled on the operative date of this section or the salary which is otherwise provided by this code for the Chief Deputy Clerk of the Southeast Municipal Court District, whichever is higher.

SEC. 4 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity or entities which desired legislative authority to act to carry out the program specified in this act.

SEC. 5. Sections 2 and 3 of this act shall become operative only if the Board of Supervisors of the County of Los Angeles orders a consolidation of the San Antonio Municipal Court District and the South Gate Municipal Court District and adopts an ordinance setting forth the boundaries of such consolidated district. If the Los Angeles County Board of Supervisors adopts such an ordinance, those sections shall become operative upon the effective date of such ordinance

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CHAPTER 1103

An act to amend Section 1737 of the Welfare and Institutions Code, relating to juveniles

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 1737 of the Welfare and Institutions Code is amended to read:

1737. When a person has been committed to the custody of the authority, if it is deemed warranted by a diagnostic study and recommendation approved by the director, the judge who ordered the commitment or, if the judge is not available, the presiding or sole

judge of the court, within 120 days of the date of commitment on his own motion, or the court, at any time thereafter upon recommendation of the director, may recall the commitment previously ordered and resentence the person as if he had not previously been sentenced. The time served while in custody of the authority shall be credited toward the term of any person resentenced pursuant to this section.

CHAPTER 1104

An act to amend Section 65302 of, to add Section 65300.5 to, and to repeal Section 65302.1 of, the Government Code, relating to planning.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall also identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to such areas.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element, to be developed pursuant to regulations established under Section 41134 of the Health and Safety Code, consisting of standards and plans for the improvement of housing and for provision of adequate sites for housing. This element of the plan shall make adequate provision for the housing needs of all economic segments of the community.

(d) A conservation element for the conservation, development,

and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Flood control.

(3) Prevention and control of the pollution of streams and other waters.

(4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(5) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(6) Protection of watersheds.

(7) The location, quantity and quality of the rock, sand and gravel resources.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560) of this chapter.

(f) A seismic safety element consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and seiches.

The seismic safety element shall also include an appraisal of mudslides, landslides, and slope stability as necessary geologic hazards that must be considered simultaneously with other hazards such as possible surface ruptures from faulting, ground shaking, ground failure and seismically induced waves.

(g) A noise element in quantitative, numerical terms, showing contours of present and projected noise levels associated with all existing and proposed major transportation elements. These include but are not limited to the following:

(1) Highways and freeways,

(2) Ground rapid transit systems,

(3) Ground facilities associated with all airports operating under a permit from the State Department of Aeronautics.

These noise contours may be expressed in any standard acoustical scale which includes both the magnitude of noise and frequency of its occurrence. The recommended scale is sound level A, as measured with A-weighting network of a standard sound level meter, with corrections added for the time duration per event and the total number of events per 24-hour period.

Noise contours shall be shown in minimum increments of five decibels and shall be continued down to 65 db(A). For regions involving hospitals, rest homes, long-term medical or mental care, or

outdoor recreational areas, the contours shall be continued down to 45 db(A).

Conclusions regarding appropriate site or route selection alternatives or noise impact upon compatible land uses shall be included in the general plan.

The state, local, or private agency responsible for the construction or maintenance of such transportation facilities shall provide to the local agency producing the general plan, a statement of the present and projected noise levels of the facility, and any information which was used in the development of such levels.

(h) A scenic highway element for the development, establishment, and protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(i) A safety element for the protection of the community from fires and geologic hazards including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures, and geologic hazard mapping in areas of known geologic hazards.

The requirements of this section shall apply to charter cities.

SEC. 1.5. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land-use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land-use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land-use element shall also identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to such areas.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land-use element of the plan.

(c) A housing element, to be developed pursuant to regulations established under Section 41134 of the Health and Safety Code, consisting of standards and plans for the improvement of housing and for provision of adequate sites for housing. This element of the plan shall make adequate provision for the housing needs of all economic segments of the community.

(d) A conservation element for the conservation, development,

and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Flood control.

(3) Prevention and control of the pollution of streams and other waters.

(4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(5) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(6) Protection of watersheds.

(7) The location, quantity and quality of the rock, sand and gravel resources.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560) of this chapter.

(f) A seismic safety element consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and seiches.

The seismic safety element shall also include an appraisal of mudslides, landslides, and slope stability as necessary geologic hazards that must be considered simultaneously with other hazards such as possible surface ruptures from faulting, ground shaking, ground failure and seismically induced waves.

(g) A noise element, which shall recognize guidelines adopted by the Office of Noise Control pursuant to Section 39850.1 of the Health and Safety Code, and which quantifies the community noise environment in terms of noise exposure contours for both near and long-term levels of growth and traffic activity. Such noise exposure information shall become a guideline for use in development of the land use element to achieve noise compatible land use and also to provide baseline levels and noise source identification for local noise ordinance enforcement.

The sources of environmental noise considered in this analysis shall include, but are not limited to, the following:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all

other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

The noise exposure information shall be presented in terms of noise contours expressed in community noise equivalent level (CNEL) or day-night average level (L_{dn}). CNEL means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five decibels to sound levels in the evening from 7 p.m. to 10 p.m. and after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m. L_{dn} means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m.

The contours shall be shown in minimum increments of 5 db and shall continue down to 60 db. For areas deemed noise sensitive, including, but not limited to, areas containing schools, hospitals, rest homes, long-term medical or mental care facilities, or any other land use areas deemed noise sensitive by the local jurisdiction, the noise exposure shall be determined by monitoring.

A part of the noise element shall also include the preparation of a community noise exposure inventory, current and projected, which identifies the number of persons exposed to various levels of noise throughout the community.

The noise element shall also recommend mitigating measures and possible solutions to existing and foreseeable noise problems.

The state, local, or private agency responsible for the construction, maintenance, or operation of those transportation, industrial, or other commercial facilities specified in paragraph 2 of this subdivision shall provide to the local agency producing the general plan, specific data relating to current and projected levels of activity and a detailed methodology for the development of noise contours given this supplied data, or they shall provide noise contours as specified in the foregoing statements.

It shall be the responsibility of the local agency preparing the general plan to specify the manner in which the noise element will be integrated into the city or county's zoning plan and tied to the land use and circulation elements and to the local noise ordinance. The noise element, once adopted, shall also become the guideline for determining compliance with the state's noise insulation standards, as contained in Section 1092 of Title 25 of the California Administrative Code.

(h) A scenic highway element for the development, establishment, and protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(i) A safety element for the protection of the community from

fires and geologic hazards including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures, and geologic hazard mapping in areas of known geologic hazards.

The requirements of this section shall apply to charter cities.

SEC 2. Section 65300.5 is added to the Government Code, to read:

65300.5. In construing the provisions of this article, the Legislature intends that the general plan and elements and parts thereof comprise an integrated, internally consistent and compatible statement of policies for the adopting agency.

SEC. 3. Section 65302.1 of the Government Code is repealed.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

SEC. 5. It is the intent of the legislature, if this bill and Senate Bill No. 860 are both chaptered and become effective January 1, 1976, both bills amend Section 65302 of the Government Code, and this bill is chaptered after Senate Bill No. 860, that the amendments to Section 65302 proposed by both bills be given effect and incorporated in Section 65302 in the form set forth in Section 1.5 of this act. Therefore, Section 1 5 of this act shall become operative only if this bill and Senate Bill No. 860 are both chaptered and become effective January 1, 1976, both amend Section 65302, and this bill is chaptered after Senate Bill No. 860, in which case Section 1 of this act shall not become operative.

CHAPTER 1105

An act to add Sections 5655.1, 5768, and 5769 to the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 5655.1 is added to the Welfare and Institutions Code, to read:

5655.1. The duties of any individual employed within the Department of Health to serve as a liaison between the state and a county regarding mental health programs established pursuant to this part shall include, as a minimum, the following:

(a) Consultation services to the local mental health directors, local governing bodies, and local mental health advisory boards.

(b) Upon request and with available staff, obtain additional consultation services for the local mental health directors, local governing bodies, and local mental health advisory boards.

(c) Advocacy for and responsiveness to local program needs.

(d) Participation in the California Conference of Local Mental Health Directors.

SEC. 2. Section 5768 is added to the Welfare and Institutions Code, to read:

5768. (a) Notwithstanding any other provision of law, except as to requirements relating to fire and health, the department, in its discretion, may permit new programs to be developed and implemented without complying with licensure requirements established pursuant to existing state law.

(b) Any program developed and implemented pursuant to subdivision (a) shall be reviewed at least once each six months, as determined by the department.

(c) The department may establish appropriate licensing requirements for such new programs upon a determination that such programs should be continued.

(d) After two years any program shall require a licensure category if it is to be continued.

SEC. 3. Section 5769 is added to the Welfare and Institutions Code, to read:

5769 Whenever the director determines that a county's personnel regulations and procedures are impediments to the timely implementation of programs developed and implemented pursuant to Section 5768, the director shall communicate such determination to the governing body of such county.

SEC. 4. The department shall commission a report to be conducted by a nongovernmental organization to evaluate administrative and fiscal staffing and training on the state and county levels. The findings and recommendations resulting from the report shall be reported to the Legislature, the department, and the local mental health directors by March 1, 1976.

CHAPTER 1106

An act to add Section 302.1 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 302.1 is added to the Streets and Highways Code, to read:

302.1. Notwithstanding the provisions of Section 253.2, the California freeway and expressway system shall not include that portion of Route 2 from Route 405 to Route 101 in the County of Los Angeles.

CHAPTER 1107

An act to add Section 302.2 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 302 2 is added to the Streets and Highways Code, to read:

302.2. Notwithstanding Section 253.2, the California freeway and expressway system shall not include that portion of Route 2 from Route 101 to Glendale Boulevard in the County of Los Angeles.

CHAPTER 1108

An act to amend Sections 4353, 5328.6 and 5330 of, and to add Sections 4353.5 and 5328.7 to, the Welfare and Institutions Code, relating to mental health programs.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 4353 of the Welfare and Institutions Code is amended to read:

4353. The department shall not approve the establishment of a methadone program without a written application by the treatment facility which meets evaluative criteria required by the department.

The department shall not require disclosure of the identity of patients or former patients or of any records containing identifying information except as provided in Section 4353.5. Other information and records shall be subject to the confidentiality and disclosure provisions contained in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5.

SEC. 2. Section 4353.5 is added to the Welfare and Institutions Code, to read:

4353.5. The identity of patients or former patients may be disclosed only as follows:

(a) The consent of the patient, or his guardian or conservator shall be obtained before his identity in information or records may be disclosed by any person employed by a treatment program to any person not employed by the treatment program.

(b) In communications between qualified professional persons employed by the treatment program in the provision of services.

(c) To qualified medical persons not employed by the treatment program when the patient is involved in a medical emergency.

(d) With patient approval, to the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for public welfare, aid, insurance, or medical assistance to which he may be entitled.

(e) If the recipient of services is a minor, ward, or conservatee, and his parent, guardian, or conservator designates, in writing, persons to whom his identity in records or information may be disclosed, except that nothing in this section shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family.

(f) As ordered by a court, upon a showing of good cause.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families, provided that specific threats have been made against such persons.

SEC. 3. Section 5328.6 of the Welfare and Institutions Code is amended to read:

5328.6. When any disclosure of information or records is made as authorized by the provisions of Section 4353 or 4353.5, subdivision (a) or (d) of Section 5328, Sections 5328.1, 5328.3, or 5328.4, the physician in charge of the patient or the professional person in charge of the facility shall promptly cause to be entered into the patient's medical record· the date and circumstances under which such disclosure was made; the names and relationships to the patient if any, of persons or agencies to whom such disclosure was made; and the specific information disclosed

SEC. 4. Section 5328.7 is added to the Welfare and Institutions Code, to read:

5328.7. Signed consent forms by a patient for release of any information to which such patient is required to consent under the provisions of Sections 4353 or 4353.5 or subdivision (a) or (d) of Section 5328 shall be obtained for each separate use with the use specified, the information to be released, the name of the agency or individual to whom information will be released indicated on the form and the name of the responsible individual who has authorization to release information specified. Any use of this form shall be noted in the patient file. Patients who sign consent forms shall be given a copy of the consent form signed.

SEC. 5. Section 5330 of the Welfare and Institutions Code is amended to read:

5330. Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him in violation of the provisions of this chapter, or of Chapter 3 (commencing with Section 4330) of Part 1 of Division 4, for the greater of the following amounts:

(1) Five hundred dollars ($500).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

Any person may, in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

CHAPTER 1109

An act to add Section 4903.1 to the Labor Code, relating to insurance.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 4903.1 is added to the Labor Code, to read:

4903.1. The appeals board, before issuing its award or approval of any compromise of claim, shall determine, on the basis of liens filed with it, whether any benefits have been paid or services provided by a health care service plan, a group disability policy, a self-insured employee welfare benefit plan, or a hospital service contract, and its award or approval shall provide for reimbursement for benefits paid or services provided under such plans as follows:

(a) When the referee issues an award finding that an injury or illness arises out of and in the course of employment, but denies the applicant reimbursement for self-procured medical costs solely because of lack of notice to the applicant's employer of his need for hospital, surgical, or medical care, the appeals board shall nevertheless award a lien against the employee's recovery, to the extent of benefits paid or services provided, for the effects of the industrial injury or illness, by a health care service plan, a group disability policy, a self-insured employee welfare benefit plan, or a hospital service contract.

(b) When the referee issues an award finding that an injury or illness arises out of and in the course of employment, and makes an

award for reimbursement for self-procured medical costs, the appeals board shall allow a lien, to the extent of benefits paid or services provided, for the effects of the industrial injury or illness, by a health care service plan, a group disability policy, a self-insured employee welfare benefit plan, or a hospital service contract.

(c) When the parties propose that the case be disposed of by way of a compromise and release agreement, in the event the lien claimant does not agree to the amount allocated to it, then the referee shall determine the potential recovery and reduce the amount of the lien in the ratio of the applicant's recovery to the potential recovery in full satisfaction of its lien claim.

CHAPTER 1110

An act to amend Sections 31204, 31214, 31295.5, and 31263 of the Education Code, relating to student aid

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. The Legislature recognizes that a lack of adequate financial resources tends to deter access to postsecondary education for many students of demonstrated academic ability and achievement. It is the intent of the Legislature in enacting this act to increase the number of opportunities for students to attain a degree of education commensurate with their abilities and aspirations.

It is therefor the intent of the Legislature in enacting this act to increase the number of awards available to students. This act shall not have the effect of reducing the amount of the award that a student is qualified to receive.

SEC. 2. Section 31204 of the Education Code is amended to read:

31204. There shall be available for the fiscal year 1972–73 scholarships in an amount equal to 3 percent of the number of California high school graduates of the previous year, plus such scholarships for all state scholarship winners who meet all standards for renewal of their awards prescribed by this code and by regulations of the State Scholarship and Loan Commission.

There shall be available for the fiscal year 1973–74 such scholarships in an amount equal to 3.5 percent of the number of California high school graduates of the previous year, plus such scholarships for all state scholarship winners who meet all standards for renewal of their awards prescribed by this code and by regulations of the State Scholarship and Loan Commission.

There shall be available for the fiscal year 1974–75 and for fiscal year 1975–76 such scholarships in an amount equal to 4.25 percent of

the number of California high school graduates of the previous year, plus such scholarships for all state scholarship winners who meet all standards for renewal of their awards prescribed by this code and by regulations of the State Scholarship and Loan Commission.

There shall be available for the fiscal year 1976–77 and for each fiscal year thereafter such scholarships in an amount equal to 4.6 percent of the number of California high school graduates of the previous year, plus such scholarships for all state scholarship winners who meet all standards for renewal of their awards prescribed by this code and by regulations of the State Scholarship and Loan Commission, except that new scholarships in excess of 4.25 percent of the number of high school graduates shall not be awarded unless there are federal student financial aid funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal.

Funds for scholarships and grants from the federal government shall not be considered to be in lieu of state scholarships or grants unless the commission determines that all or a portion of a federal scholarship or grant when combined with a state scholarship or grant exceeds the student's financial need as determined by the commission. In such instances the commission may reduce a state scholarship or grant so that total scholarship or grant assistance will not exceed the student's need.

SEC. 3. Section 31214 of the Education Code is amended to read:

31214. For students initially selected for a state scholarship prior to January 1, 1974, each competitive scholarship is for the period of one academic year and the award shall be for three hundred dollars ($300) to not to exceed two thousand two hundred dollars ($2,200) in one-hundred-dollar ($100) amounts at the college the award winner will attend, as required by applicant's financial need, as determined by the State Scholarship and Loan Commission, but in no event in excess of an amount equal to the tuition or necessary fees, or both tuition and fees, for the academic year, including summer terms, sessions, or quarters of the institution at which the scholarship is used. For students initially selected for a state scholarship after January 1, 1974, each competitive scholarship is for the period of one academic year, and the award shall be for three hundred dollars ($300) to not to exceed two thousand five hundred dollars ($2,500) in one-hundred-dollar ($100) amounts at the college the award winner will attend, as required by the applicant's financial need, as determined by the State Scholarship and Loan Commission, but in no event in excess of an amount equal to the tuition or necessary fees, or both tuition and fees, for the academic year, including summer terms, sessions, or quarters of the institution at which the scholarship is used. For students initially selected for a state scholarship after January 1, 1976, each competitive scholarship is for the period of one academic year, and the award shall be for three hundred dollars

($300) to not to exceed two thousand nine hundred dollars ($2,900) in one-hundred-dollar ($100) amounts at the college the award winner will attend, as required by the applicant's financial need, as determined by the State Scholarship and Loan Commission, but in no event in excess of an amount equal to the tuition or necessary fees, or both tuition and fees, for the academic year, including summer terms, sessions, or quarters of the institution at which the scholarship is used. No competitive scholarship awarded to an applicant under this section for the period of one academic year shall exceed the total amount of two thousand nine hundred dollars ($2,900); except that the State Scholarship and Loan Commission may, for students who accelerate college attendance, increase the amount of award for one academic year proportional to the period of additional attendance resulting from attendance at a summer term, session, or quarter. In the aggregate, the total amount a student would receive in a four-year period may not be increased as a result of accelerating his progress to a degree by attending summer terms, sessions, or quarters The State Scholarship and Loan Commission may provide by appropriate rules and regulations for such reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as it may deem proper. A competitive scholarship may be renewed annually without an additional competitive examination until the award winner has received four annual awards or until he has been graduated from such an institution in an undergraduate course, whichever is the earlier, provided that at or prior to such renewal the State Scholarship and Loan Commission shall reassess the financial needs of such award winner and establish the amount of the award within the limits prescribed by this section. The scholarship shall remain in effect only during the period that the award winner achieves satisfactory academic progress and is regularly enrolled as a full-time student in an institution of collegiate grade, as described in Section 31206.

No award shall exceed two thousand two hundred dollars ($2,200) for a year except awards given for attendance during the 1974–1975 fiscal year and thereafter. No award shall exceed two thousand five hundred dollars ($2,500) for a year except awards given for attendance during the 1976–1977 fiscal year and thereafter.

SEC 4. Section 31263 of the Education Code is amended to read:

31263. There shall be available up to 1,000 grants in each of the fiscal years 1969–70, 1970–71, 1971–72, and up to 2,000 grants in each of the fiscal years 1972–73 and 1973–74, and up to 3,100 grants in the 1974–75 and 1975–76 fiscal years, and up to 4,650 grants in the 1976–77 fiscal year and each fiscal year thereafter except that new grants in excess of 3,100 shall not be awarded unless there are federal student financial aid funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds

who are eligible for renewal. The recipients of such grants shall be eligible for renewal of their awards until they have completed an A.B. degree or its equivalent in conformance with the terms prescribed by the State Scholarship and Loan Commission, which terms shall not be in conflict with this chapter. Such grants may be awarded to eligible students who attend public community colleges for vocational purposes terminating with a two-year course of study or the California Maritime Academy established pursuant to Chapter 3 (commencing with Section 25951) of Division 19.

College opportunity grants may be utilized at summer quarters or terms. In the aggregate the total amount a student would receive in a four-year period may not be increased as a result of accelerating his progress to a degree by attending summer quarters or terms.

SEC. 5. Section 31295.5 of the Education Code is amended to read:

31295.5. There shall be available 700 new grants in each of the fiscal years of 1974–75, and 1975–76 and 900 new grants shall be available in the 1976–77 fiscal year and each fiscal year thereafter, except that new grants in excess of 700 shall not be awarded unless there are federal student financial aid funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal. The recipients of such grants shall be eligible for renewal of their grants until they have completed their occupational or technical training in conformance with terms prescribed by the commission. In no case shall such grants exceed two calendar years, nor be awarded for a course of training of less than six weeks' duration.

A grant shall be deemed vacated if the recipient does not begin the course of training within six months after the grant is awarded.

CHAPTER 1111

An act to add Chapter 1.5 (commencing with Section 6300) to Division 5 of, to repeal Chapter 1.5 (commencing with Section 6300) of Division 5 of, and to repeal Article 2.5 (commencing with Section 10266) of Chapter 2 of Division 7 of, the Elections Code, relating to the presidential primary.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Chapter 1.5 (commencing with Section 6300) of Division 5 of the Elections Code is repealed.

SEC 2. Chapter 1.5 (commencing with Section 6300) is added to Division 5 of the Elections Code, to read·

CHAPTER 1.5. DEMOCRATIC PRESIDENTIAL PRIMARY

Article 1. General Provisions

6300. This chapter shall be known and may be cited as the "Alquist Open Presidential Primary Act".

6301. The provisions of this chapter apply to the Democratic Party.

6302. The provisions of this code relating to the direct primary apply to the presidential primary insofar as the former do not conflict with the latter.

6303. This chapter applies both to the selection of delegates and alternates pledged to the candidacy of a particular candidate and to the selection of delegates and alternates not expressing a preference for a particular candidate.

Article 2. Number and Certification of Delegates and Alternates

6305. The chairperson of the Democratic State Central Committee shall notify the Secretary of State on or before the first of February immediately preceding the presidential primary as to the number of delegates and alternates to represent the state in the next national convention of the Democratic Party.

The chairperson shall also notify the Secretary of State at such time as to the number of delegates which may be selected from each congressional district in connection with the presidential primary. The number of delegates which may be selected from each congressional district shall be based on a formula which apportions 75 percent of the total delegation allocated to the state by the Democratic National Committee (rounded to the nearest whole integer) among the congressional districts in a manner which gives equal weight to the average of the vote in each district for Democratic candidates in the two immediately preceding presidential elections and to the Democratic Party registration based on the report of registration issued by the Secretary of State in January of the presidential primary year. The number of delegates allocated to each congressional district shall be rounded off to the nearest whole integer. The remaining delegates and the alternates shall be selected pursuant to Article 10 (commencing with Section 6365) of this chapter.

6306. The notification of the number of delegates and alternates shall be in substantially the following form:

Statement of Number of Delegates and Alternates to Democratic National Convention and of Number of Delegates to Be Selected from Each Congressional District

To the Secretary of State
Sacramento, California

You are hereby notified that the number of delegates and alternates to represent the State of California in the next national convention of the Democratic Party is _____.

You are hereby notified that the number of delegates which may be selected from each congressional district as a part of the delegation to the national convention of the Democratic Party is as follows:

Congressional District No.	Number of delegates
_____	_____
_____	_____
_____	_____

Dated this _____ day of _____, 19__.

_____
Chairperson of the State Central Committee of the Democratic Party.

6307. If the chairperson of the Democratic State Central Committee fails to file the notice required by Section 6305 with the Secretary of State, the Secretary of State shall ascertain the total number of delegates from the call for the national convention issued by the National Committee of the Democratic Party and shall compute the number of delegates which may be selected from each congressional district from the formula specified in Section 6305.

Article 3. Selection of Candidates by the Secretary of State

6310. This article shall apply to the designation of candidates by the Secretary of State for placement only on the presidential primary ballot.

6311. The Secretary of State shall place the name of a candidate upon the presidential primary ballot when the Secretary of State has determined that such a candidate is generally advocated for or recognized throughout the United States or California as actively seeking the nomination of the Democratic Party for President of the United States. The Secretary of State shall include as criteria for selecting candidates the fact of qualifying for funding under the Federal Elections Campaign Act as amended in 1974.

After January 1, but before February 1, immediately preceding a presidential primary election the Secretary of State shall publicly announce and distribute to the news media for publication a list of

the candidates he or she intends to place on the ballot at the following presidential primary election. Following this announcement he or she may add candidates to the selection, but he or she may not delete any candidate whose name appears on the announced list.

6312. When the Secretary of State decides to place the name of a candidate on the ballot pursuant to Section 6311, he or she shall notify the candidate that the candidate's name will appear on the ballot of this state in the presidential primary election.

The secretary shall also notify the candidate that the candidate may withdraw his or her name from the ballot by filing with the Secretary of State an affidavit pursuant to Section 6313, no later than the 64th day before that election.

6313. If a selected candidate or an unselected candidate files with the Secretary of State, no later than the 64th day before the presidential primary, an affidavit stating without qualification that he or she is not now a candidate for the office of President of the United States, such candidate's name shall be omitted from the list of names certified by the Secretary of State to the county clerks for the ballot and his or her name shall not appear on the ballot.

Article 4. Qualification of Candidates and Uncommitted Delegations

6315. This article shall apply to the qualification for placement on the presidential primary ballot of candidates who are not selected candidates as referred to in Section 6311, and each group, consisting of at least nine voters of the state who are registered as affiliated with the Democratic Party, proposing the selection of delegates expressing no preference for a candidate for President, hereinafter referred to as an "uncommitted delegation." Such additional candidates who qualify under this article shall hereinafter be referred to as unselected candidates.

6316. Any unselected candidate or uncommitted delegation desiring to be placed on the presidential primary ballot shall have nomination papers circulated on behalf of the candidacy. In order to qualify for placement on the presidential primary ballot, the candidate's or uncommitted delegation's nomination papers shall be signed by voters registered as affiliated with the Democratic Party equal in number to not less than 1 percent of the number of persons registered as members of the Democratic Party on January 1 of the presidential primary year.

Article 5. Steering Committees

6325. Each selected candidate and each candidate who seeks to qualify under Article 4 (commencing with Section 6315) of this chapter and each group proposing an uncommitted delegation shall appoint a steering committee of seven members.

6326. Each steering committee shall elect a chairperson.

6327. Each steering committee shall be responsible for the circulation of nomination papers of candidates who seek to qualify under Article 4 (commencing with Section 6315) of this chapter and groups proposing uncommitted delegations, including the appointment of verification deputies. Each steering committee shall appoint a caucus organizer for each congressional district and shall perform the duties required of it by this chapter.

6328. In each congressional district, before the Thursday preceding the second Sunday in April, all individuals who wish to run as delegates in a caucus shall file with the county clerk a declaration of candidate for recommended delegate, which declaration shall be made available to the steering committee of each candidate or uncommitted delegation. A candidate for delegate shall reside in the congressional district from which he or she wishes to be chosen as a delegate, shall be a member of the Democratic Party, and shall sign a certificate pledging his or her support for that presidential candidate or uncommitted delegation before he or she becomes a bona fide candidate for delegate.

The pledge of support shall be in substantially the following form:

Declaration of Candidate for Recommended Delegate

State of California }
County of _____ } ss.

I, _____, reside and am registered to vote at No. _____ Street, in the City (or town) of _____, in the County of _____, in the _____ Congressional District, State of California.

I personally prefer _____ as nominee of the Democratic Party for President of the United States, and hereby declare to the voters of the Democratic Party in the State of California that if selected as a delegate to their national party convention, I shall support _____ as nominee of my party for President of the United States until released by him or her or until he or she fails to receive at least 15 percent of the vote on any ballot wherein his or her name is placed before the convention in nomination. Such a pledge shall not be binding in the event the candidate dies or becomes unable to accept or hold office if nominated and elected. (This statement of preference shall be omitted where the candidate for delegate is part of a group expressing no preference as to a particular candidate.)

I express no preference as to a particular candidate. The chairperson of my group is _____. (This statement shall be omitted where the candidate for delegate is part of a group preferring a particular candidate.)

I certify under penalty of perjury that the foregoing is true and correct.

(Signed) _____

6329. On the second Sunday in April, at 1 p.m., the caucus chairperson in each congressional district shall convene a caucus for the purpose of recommending delegates. The steering committee of each candidate or uncommitted delegation shall have sole authority to establish rules and procedures by which the caucuses of that candidate or uncommitted delegation shall be conducted. Such rules and procedures shall be uniform statewide. Each caucus shall recommend 10 delegates, ranked according to the popular vote each receives in the caucus election, provided, however, that the candidate for President or the steering committee on behalf of the candidate for President shall retain the right to reject and replace individual delegates nominated by the caucus. No provision of the law shall be construed as a constraint on the right of the candidate for President, or the steering committee, on his or her behalf, to select delegates whether or not recommended by the caucus.

Each participant at each caucus shall reside in and be a registered Democrat of the congressional district of the caucus he or she attends and each shall sign a statement of support for that presidential candidate or uncommitted delegation. Delegates selected by a steering committee who have failed to sign a statement of support for their presidential candidate, as prescribed in Section 6328, shall sign such a statement.

On or before April 16 of the presidential primary year, the chairperson of a steering committee shall file with the Secretary of State a statement containing the names of potential delegates from each congressional district for inclusion in the ballot information materials sent to the voters with the sample ballot. In all cases, the slate for each congressional district shall be equal to the number of delegates allotted to each congressional district pursuant to Article 2 (commencing with Section 6305 of this chapter. At the same time, the chairperson of the steering committee shall submit the addresses of all potential delegates and the names and addresses of steering committee members to the Secretary of State.

Article 6. Nomination Papers

6330. This article shall govern the circulation of nomination papers to qualify unselected candidates and uncommitted delegations for placement on the presidential primary ballot.

6331. Nomination papers to be circulated pursuant to Section 6316 shall be prepared, circulated, signed and verified and shall be left for examination with the county clerk of the county in which they are circulated at least 74 days prior to the presidential primary.

6332. Upon the filing of nomination papers pursuant to Section 6316 signed by the required number of voters, the candidate or uncommitted delegation named in the papers shall be voted upon in the presidential primary election.

6333. Upon receipt of a sufficient number of signatures for the presidential primary ballot, the Secretary of State shall notify the

chairperson of the steering committee of each unselected candidate or uncommitted delegation of that fact and advise him or her that no more signatures will be received.

6334. Each signer of a nomination paper may sign only one paper. Each signer shall declare his or her intention to support the candidate or delegation, add his or her place of residence, and give his or her street and number if any. Each signer shall also write the date of his or her signature at the end of the line just after his or her residence.

6335. Any nomination paper may be presented in sections. Each section shall contain the name of the candidate or chairperson of the steering committee in the case of uncommitted delegations. Each section shall bear the name of the county in which it is circulated. Only voters of the county registered as intending to affiliate with the Democratic Party are competent to sign.

6336. Each section shall be prepared with the lines for signatures numbered, and shall have attached the affidavit of the verification deputy who obtained signatures to it, stating that all the signatures to the attached section were made in his or her presence, and that to the best of his or her knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be. No other affidavit is required. The affidavit of any verification deputy shall be verified free of charge by any officer authorized to administer oaths.

6337. A verified nomination paper is prima facie evidence that the signatures are genuine and that the persons signing it are voters, until it is otherwise proved by comparison of the signatures with the affidavits of registration in the office of the county clerk.

6338. The nomination paper for the presidential primary ballot shall be in substantially the following form:

Section of Nomination Paper Signed by Voter on Behalf of a Presidential Candidate or Uncommitted Delegation

Section _____ Page _____

County of _____. Nomination paper of a candidate or uncommitted delegation for the presidential primary ballot.

State of California
County of _____ } ss.

Signer's Statement

I, the undersigned, am a voter of the County of _____, State of California, and am registered as intending to affiliate with the Democratic Party. I hereby nominate _____ for the presidential primary to be held on the _____ day of _____, 19__. I have not signed the nomination paper of any other candidate or uncommitted

delegation, and I further declare that I intend to support the candidate or uncommitted delegation named herein.

Number	Signature	Residence	Date
1			
2			
3			
Etc.			

Verification Deputy's Affidavit

I, _____, solemnly swear (or affirm) that I have been appointed as a verification deputy to secure signatures in the County of _____ to the nomination paper of a candidate or uncommitted delegation for the presidential primary ballot named in the signer's statement above; that all the signatures on this section of the nomination paper numbered from 1 to _____, inclusive, were made in my presence, and that to the best of my knowledge and belief each signature is the genuine signature of the person whose name it purports to be.

(Signed) _____
Verification Deputy

Subscribed and sworn to before me this _____ day of _____, 19__.

_____
(SEAL) Notary Public (or other official)

Article 7. Verification Deputies

6340. Each steering committee organized pursuant to this chapter, or its duly authorized representatives, may arrange for the appointment of verification deputies to serve within the county in which the deputies reside in securing signatures to the nomination paper proposed by the steering committee. The verification deputies thus appointed are the duly authorized verification deputies to secure signatures to the nomination paper in that county. The form on which the verification deputies are appointed shall be filed with the county clerk of the county in which the verification deputies reside, at or before the time the nomination paper is left with the county clerk for examination. Additional verification deputies may be appointed in the same manner as the original verification deputies were appointed.

6341. The verification deputies may be appointed by the steering committee, or its duly authorized representatives, on a form which shall be substantially as follows:

Appointment of Verification Deputies by Steering Committee, or Its Duly Authorized Representatives

We, the undersigned, members of the _____ steering committee (or duly authorized representatives of the _____ steering committee), do hereby appoint the following voters of the County of _____ as verification deputies to obtain signatures, in that county, to nomination papers for the qualification of a candidate or uncommitted delegation for presidential primary ballot.

Verification Deputies

Name	Residence
_____	_____
_____	_____
_____	_____
etc	etc

Committee or Its Duly Authorized Representatives

(Signed)

Name	Residence
_____	_____
_____	_____
_____	_____
etc	etc

Filed in the office of the County Clerk of _____ County, this _____ day of _____, 19__.

_____, County Clerk

By _____, Deputy

6342. Verification deputies may obtain signatures to the nomination paper for which they were appointed, at any time not before February 1 nor after 85 days prior to the presidential primary.

6343. The verification of signatures to nomination papers shall not be made by a county clerk, a deputy county clerk, or within 100 feet of any election booth, polling place, or any place where registration of electors is being conducted.

Article 8. Arrangement and Examination of Nomination Papers

6345. Each section of a nomination paper, after being verified, shall be returned by the verification deputy who circulated it to the steering committee, or to its duly authorized representatives, by whom the verification deputy was appointed. All the sections circulated in any county shall be collected by the steering committee, or its duly authorized representatives, and they shall

arrange and leave the sections with the county clerk for examination.

6346. Prior to filing, the sections of a nomination paper shall be numbered in order.

6347 Nomination papers, properly assembled, may be consolidated and fastened together by counties, but nomination papers signed by voters in different counties shall not be fastened together.

6348. The county clerk shall examine all nomination papers left with him or her for examination and shall disregard and mark "not sufficient" the name of any voter of his or her county which does not appear in the same handwriting on an affidavit of registration in the office of the county clerk. The county clerk shall also disregard and mark "not sufficient" the name of any voter of his or her county who has not stated his intention to affiliate with the Democratic Party

6349. Within five days after any nomination papers are left with him or her for examination, the county clerk shall:

(a) Examine and affix to them a certificate reciting that he or she has examined them and stating the number of names which have not been marked "not sufficient."

(b) Transmit the papers with the certificate of examination to the Secretary of State, who shall file the papers.

6350. The county clerk's certificate to nomination papers shall be in substantially the following form:

County Clerk's Certificate to Nomination Papers

To the Secretary of State:

I, County Clerk of the County of _____, hereby certify that I have examined the nomination papers to which this certificate is attached, of the candidate or uncommitted delegation, as the case may be, for purposes of qualifying for placement on the ballot at the ensuing presidential primary, that the number of names which I have not marked "not sufficient" is _____.

Dated this _____ day of _____, 19__.

_____, County Clerk

(SEAL) By_____, Deputy

6351. No filing fee shall be required from any person in order to file nomination papers.

Article 9. Notification of Qualification From Secretary of State

6355. At least 64 days before a presidential primary, the Secretary of State shall notify each steering committee whether or not it has qualified a candidate or uncommitted delegation for placement on the ballot pursuant to Section 6315.

Article 9.5. Certified List of Candidates and Uncommitted Delegations, Notice of Election

6360. At least 59 days before a presidential primary, the Secretary of State shall transmit to each county clerk a certified list containing the name of each candidate who is entitled to be voted for on the ballot at the presidential primary, and the name of each chairperson of a steering committee of an uncommitted delegation which is entitled to be voted for on the same ballot.

If no uncommitted delegation has qualified pursuant to Article 4 (commencing with Section 6315), the Secretary of State shall inform the county clerks to provide for an uncommitted space on the ballot.

The certified list shall be in substantially the following form:

Certified List of Candidates and Uncommitted Delegations

To the County Clerk of _____ County:

I, _____, Secretary of State, do hereby certify that the following list contains the name of each person who is entitled to be voted for as a candidate of the Democratic Party at the presidential preference primary to be held on the _____ day of June, 19__, and the name of each chairperson of a steering committee of an uncommitted delegation which is entitled to be voted for on the ballot.

List of Presidential Candidates and Uncommitted Delegations

Mary Adams
Joe Black
John P. Monroe
Unpledged delegation
Frank Smith,
Chairperson

Dated at Sacramento, California, this _____ day of _____, 19__.

_____

(SEAL) Secretary of State

6361. Immediately after the county clerk receives the certified list of candidates from the Secretary of State, he or she shall publish it in a presidential primary notice, under the proper party designation. The notice shall also contain:

(a) The date of the election.

(b) The hours during which the polls will be open.

6362. The publication of the presidential primary notice shall be made in the county pursuant to Section 6061 of the Government Code.

6363. The notice of the list of candidates and uncommitted delegations published by the county clerk shall be in substantially the

following form:

Notice by County Clerk of Time and Place of Presidential Primary Election, and Names of Democratic Candidates and Uncommitted Delegations.

Notice is hereby given that the presidential primary election is to be held in the County of _____ on the _____ day of June, 19__, and that hereinafter there is stated the name of each person and each uncommitted delegation which is entitled to be voted for on the ballot at the election.

List of Presidential Candidates
and Uncommitted Delegations

Democratic Party

Mary Adams
Joe Black
John P. Monroe
Unpledged delegation
Frank Smith,
Chairperson

Notice is also hereby given that at the presidential primary the polls will be open from 7 a.m. to 8 p.m. on the day thereof.

Dated this _____ day of _____, 19__.

_____, County Clerk

Article 10. Postprimary Selection and Apportionment of Delegation

6365. Before the Wednesday preceding the third Saturday following the primary, the steering committee of each candidate or uncommitted delegation shall announce the names of the congressional district delegates. On the third Saturday following the presidential primary election, the steering committees of the candidates and uncommitted delegations and congressional district delegates shall meet in convention at the time and place specified by the chairperson of the Democratic State Central Committee in consultation with the chairperson of each steering committee, to select the at large delegates and all the alternates. The chairperson of the Democratic State Central Committee shall serve as chairperson of the convention until the selection process is completed.

6365.1. Before the Monday preceding the third Saturday following the primary the Secretary of State, in consultation with the chairperson of the Democratic State Central Committee, shall announce the number of delegates to which each candidate or

uncommitted delegation is entitled based on the vote in each congressional district. Seventy-five percent of the delegates shall be chosen by the steering committee of each candidate or uncommitted delegation from among the individuals whose names were submitted to the Secretary of State as potential delegates pledged to the various candidates and uncommitted delegation from each congressional district.

The delegates shall be chosen to reflect the strength of support a candidate or uncommitted delegation has received in each congressional district. In each congressional district:

(a) A candidate or uncommitted delegation shall receive the number of whole delegates each is allowed based on the percentage of the vote received in that congressional district.

(b) The remaining delegates shall be awarded to candidates ranked according to the unused percentage of the vote each received. A candidate or uncommitted delegation who receives at least 15 percent of the vote in a congressional district shall receive one delegate before any candidate receives delegates in addition to whole delegates based on the unused portion of the candidate's or uncommitted delegation's vote. In the event of a tie, a delegate shall be awarded to the candidate with the highest statewide popular vote. No delegates shall be awarded to any candidate or uncommitted delegation who fails to win 10 percent of the vote in a congressional district.

In the event that an uncommitted designation was included on the ballot pursuant to Section 6360, and in the event that the uncommitted designation qualifies for delegates pursuant to the provisions of this section, a designee of the chairperson of the Democratic State Central Committee shall convene an uncommitted caucus in each applicable congressional district for the purpose of electing delegates prior to the third Saturday following the primary

6365.2. The remaining 25 percent of the delegation shall be chosen at large and shall be apportioned among the presidential candidates and uncommitted delegations in the same proportion as delegates were awarded by congressional districts on the basis of the primary vote. In the event of a tie, a delegate shall be awarded to the candidate with the highest statewide popular vote.

The remaining 25 percent of the delegates and all of the alternates shall be selected by separate caucuses of the already-selected delegates pledged to the various candidates or who are members of an uncommitted delegation. The candidate for President shall retain the right to approve all delegates and alternates pledged to him or her and who have been selected pursuant to this section. Each caucus shall be chaired by the chairperson of the appropriate steering committee.

The delegation so formed shall thereafter select a chairperson of the delegation, select convention committee members, select all national committee members, and proceed with such other business

as they may choose to conduct.

6365.3. The provisions of this chapter shall be the sole source of procedures for selecting the California Democratic delegation to the Democratic National Convention. Rules or bylaws, or both, of the Democratic State Central Committee shall be superseded by the provisions of this chapter.

6366. If a steering committee fails to present a slate of delegates to the Secretary of State for each congressional district pursuant to Article 5 (commencing with Section 6325) of this chapter, the candidate or uncommitted delegation shall lose the highest number of delegates to which he or she would be entitled from each congressional district for which a slate was not submitted. These delegates shall be subtracted from the total number allocated by the Secretary of State on the basis of the primary popular vote.

6367. Within five days after the convention held pursuant to Section 6365, the chairperson of the delegation shall notify the Secretary of State of the names and addresses of the delegates and alternates selected at the postprimary convention, and he or she shall file with the Secretary of State affidavits executed by all such delegates and alternates in substantially the following form:

Affidavit of Delegate or Alternate

State of California }
County of _____ } ss.

I, _____, reside and am registered to vote at No. _____ Street, in the City (or town) of _____, in the County of _____, in the _____ Congressional District, State of California.

I personally prefer _____ as nominee of my political party for President of the United States, and hereby declare to the voters of the Democratic Party in the State of California that as delegate or alternate to their national party convention, I shall support _____ as nominee of my party for President of the United States, until released by him or until he fails to receive at least 15 percent of the vote on any ballot wherein his name is placed before the convention in nomination. Such a pledge shall not be binding in the event the candidate dies or becomes unable to accept or hold office if nominated and elected. (This statement of preference shall be omitted where the candidate for delegate or alternate is part of a group expressing no preference as to a particular candidate.)

I express no preference as to a particular candidate. The chairperson of my group is _____. (This statement shall be omitted where the candidate for delegate or alternate is part of a group preferring a particular candidate.)

(Signed) _____

Subscribed and sworn to before me this _____ day of _____, 19__.

Notary Public (or other official)

Article 11. Canvass of Returns and Certificate of Selection

6370. The Secretary of State shall, not later than the 21st day after the election, compile and file in his office a statement of the canvassed returns filed with him by the county clerks.

The compiled statement shall show for each candidate and uncommitted delegation the total of the votes received, and the votes received in each county.

6371. The Secretary of State shall issue a certification of delegate to each person selected as a delegate or an alternate delegate to the Democratic Party National Convention pursuant to Section 6365.

6372. No fee shall be required of any person as a condition of receiving a certificate of selection as a delegate or an alternate.

Article 12. Write-In Candidates

6375. Notwithstanding any other provision of law, a space shall be provided on the presidential primary ballot for a voter to write in the name of a candidate for President of the United States.

6376. Any person who believes his or her name may be used as a write-in candidate for President of the United States shall, not later than 21 days before the primary election, file for endorsement of his or her write-in candidacy with the Secretary of State, or no votes shall be counted for him or her.

SEC. 3. Article 2.5 (commencing with Section 10266) of Chapter 2 of Division 7 of the Elections Code is repealed.

SEC. 4. It is the intent of the Legislature that if any part of this act shall be held unconstitutional that the remaining provisions of this act shall continue in full force and effect.

CHAPTER 1112

An act to amend Section 309 of the Health and Safety Code, relating to child health disability prevention, and making an appropriation therefor.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 309 of the Health and Safety Code is amended to read:

309. It is the policy of the State of California to make every effort to detect, as early as possible, phenylketonuria and other preventable

heritable disorders leading to mental retardation or physical defects.

The State Department of Health shall establish a genetic disease unit, which shall coordinate all programs of the department in the area of genetic disease. The unit shall promote a statewide program of testing information and counseling services and shall have the responsibility of designating tests and regulations to be used in executing this program. Such tests shall be in accordance with accepted medical practices and shall be administered to each child born in California at such time as the department has established appropriate regulations and testing methods. The department may provide laboratory testing facilities or contract with any laboratory which it deems qualified to conduct tests required under this section. The department or contracting facility may charge a fee not exceeding five dollars ($5) per test for any tests it performs pursuant to this section.

The department shall inform all hospitals or physicians, or both, of required regulations and tests and may alter or withdraw any such requirements whenever sound medical practice so indicates.

The provisions of this section shall not apply if a parent or guardian of the newborn child objects to a test on the ground that the test conflicts with his religious beliefs or practices.

The genetic disease unit is authorized to make grants or contracts for demonstration projects to determine the desirability and feasibility of additional tests or new genetic services or to initiate the development of genetic services in areas of need or to purchase or provide such services from such sums as are appropriated for this purpose.

The genetic disease unit's first task shall be to evaluate and prepare recommendations on the implementation of tests for the detection of the following diseases: galactosemia, histidinemia, galactokinase deficiency, homocystinuria, maple syrup urine disease, and tyrosinosis.

SEC. 2. The Genetic Disease Testing Fund is hereby created as a special fund in the State Treasury. All moneys collected by the State Department of Health for tests under Section 309 of the Health and Safety Code shall be deposited in the Genetic Disease Testing Fund which is continuously appropriated to the department to carry out the purposes of Section 309 of the Health and Safety Code.

Upon the request of the Director of Health and the approval of the Director of Finance, funds may be advanced to the State Department of Health in accordance with Section 16351 of the Government Code to carry out the purposes of Section 309 of the Health and Safety Code. The General Fund shall be reimbursed from fees collected for tests under Section 309 of the Health and Safety Code. It is the intent of the Legislature that the program carried out pursuant to Section 309 of the Health and Safety Code be fully supported from fees collected for such testing.

CHAPTER 1113

An act to amend Section 93 of Chapter 22 of the Statutes of 1960, First Extraordinary Session, and to add Section 830.36 to the Penal Code, relating to the Bethel Island Municipal Improvement District.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 93 of Chapter 22 of the Statutes of 1960, First Extraordinary Session, is amended to read:

Sec. 93. The district may appoint, employ, and fix the compensation of engineers, attorneys, assistants, and other employees as it deems proper. The district may also appoint, employ, and fix the compensation of police officers who shall have the powers specified in Section 830.36 of the Penal Code.

SEC. 2. Section 830.36 is added to the Penal Code, to read:

830.36. (a) Police officers appointed by the Bethel Island Municipal Improvement District pursuant to Section 93 of Chapter 22 of the Statutes of 1960, First Extraordinary Session, are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of laws relating to the district and ordinances of the district.

(b) The authority of any such peace officer extends to any place in the state; provided, that except as otherwise provided in this section, Section 830.6, or Section 1509.7 of the Military and Veterans Code, any such peace officer shall be deemed a peace officer only for purposes of his primary duty, and shall not act as a peace officer in enforcing any other law except:

(1) When in pursuit of any offender or suspected offender; or

(2) To make arrests for crimes committed, or which there is probable cause to believe have been committed, in his presence while he is in the course of his employment; or

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CHAPTER 1114

An act to amend Section 243 of the Penal Code, relating to assault and battery.

[Approved by Governor September 27, 1975. Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 243 of the Penal Code is amended to read:

243. A battery is punishable by fine of not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer or fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison for not less than one nor more than 10 years. When it is committed against a person and serious bodily injury is inflicted on such person, the offense shall be punished by imprisonment in the county jail for a period of not more than one year or imprisonment in the state prison for a period of not more than five years.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, Section 830.2, or by subdivision (a) of Section 830.6, as well as any policeman of the San Francisco Port Commission and each deputized law enforcement member of the Wildlife Protection Branch of the Department of Fish and Game.

As used in this section, "serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

CHAPTER 1115

An act to add Section 1020.5 to the Government Code, relating to public officers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975]

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

SECTION 1. Section 1020.5 is added to the Government Code, to read:

1020.5. (a) Notwithstanding Section 1020 or any other provision of law, no person shall be incapable of holding any office in a youth services bureau solely by reason of being under 18 years of age.

(b) For purposes of this section, the term "youth services bureau" means a state or local public agency, including a joint powers agency, which has as its primary purpose the establishment of a program of prevention of juvenile delinquency and to provide opportunities for young people to function as responsible members of the community.

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

In order for youth services bureaus to organize and function and effectively represent youth, it is necessary that this act become effective immediately.

CHAPTER 1116

An act to add Section 6362.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 27, 1975.]

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

SECTION 1. Section 6362.5 is added to the Revenue and Taxation Code, to read:

6362 5. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale or lease of, and the storage, use, or other consumption in this state of, master tapes or master records embodying sound, except amounts subject to the taxes imposed by other provisions of this part paid by a customer in connection with the customer's production of master tapes or master records to a recording studio for the tangible elements of such master records or master tapes.

(b) For purposes of this section:

(1) "Master tapes or master records embodying sound" means tapes, records, and other devices utilized by the recording industry in making recordings embodying sound.

(2) "Amounts paid for the furnishing of the tangible elements" shall not include any amounts paid for the copyrightable, artistic or intangible elements of such master tapes or master records, whether designated as royalties or otherwise.

(3) "Recording studio" is a place where, by means of mechanical or electronic devices, voices, music, or other sounds are transmitted to tapes, records, or other devices capable of reproducing sound.

SEC. 2. The provisions of this act are not intended by the Legislature to support any inference about the meaning of the law prior to the operative date of this act.

SEC. 3. In the past, gross receipts from the sale, lease, storage, use, or other consumption of master tapes and master records embodying sound have not been included within the measure of sales and use taxes, and proceedings are presently pending to determine whether such gross receipts should be so included in the future. Since such gross receipts have not previously been taxed,

counties and cities will not suffer a net loss of revenue within the meaning of Section 2230 of the Revenue and Taxation Code. Therefore, notwithstanding the provisions of such section, no appropriation is made by this act nor shall any other appropriation be made to make the reimbursements provided for in Section 2230 of the Revenue and Taxation Code because there will be no net loss of sales and use tax revenues caused by this act.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 60 days after the effective date of this act.

CHAPTER 1117

An act to amend Section 432.7 of the Labor Code and to amend Sections 851.6 and 11115 of, and to add Section 849.5 to, the Penal Code, relating to arrest.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975.]

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

SECTION 1. Section 849.5 is added to the Penal Code, to read:

849.5. In any case in which a person is arrested and released and no accusatory pleading is filed charging him with an offense, any record of arrest of the person shall include a record of release. Thereafter, the arrest shall not be deemed an arrest, but a detention only.

SEC. 1.5. Section 851.6 of the Penal Code is amended to read:

851.6. (a) In any case in which a person is arrested and released pursuant to paragraph (1) or (3) of subdivision (b) of Section 849, the person shall be issued a certificate, signed by the releasing officer or his superior officer, describing the action as a detention.

(b) In any case in which a person is arrested and released and no accusatory pleading is filed charging him with an offense, the person shall be issued a certificate by the law enforcement agency which arrested him describing the action as a detention.

(c) The Attorney General shall prescribe the form and content of such certificate.

(d) Any reference to the action as an arrest shall be deleted from the arrest records of the arresting agency and of the Bureau of Criminal Identification and Investigation of the Department of Justice. Thereafter, any such record of the action shall refer to it as a detention.

SEC. 2. Section 11115 of the Penal Code is amended to read:

11115. In any case in which a sheriff, police department or other

law enforcement agency makes an arrest and transmits a report of the arrest to the Department of Justice or to the Federal Bureau of Investigation, it shall be the duty of such law enforcement agency to furnish a disposition report to such agencies whenever the arrested person is transferred to the custody of another agency or is released without having a complaint or accusation filed with a court.

If either of the following dispositions is made, the disposition report shall so state:

(a) "Arrested for intoxication and released," when the arrested party is released pursuant to paragraph (2) of subdivision (b) of Section 849.

(b) "Detention only," when the detained party is released pursuant to paragraph (1) of subdivision (b) of Section 849 or issued a certificate pursuant to subdivision (b) of Section 851.6. In such cases the report shall state the specific reason for such release, indicating that there was no ground for making a criminal complaint because (1) further investigation exonerated the arrested party, (2) the complainant withdrew the complaint, (3) further investigation appeared necessary before prosecution could be initiated, (4) the ascertainable evidence as insufficient to proceed further, (5) the admissible or adducible evidence was insufficient to proceed further, or (6) other appropriate explanation for release

When a complaint or accusation has been filed with a court against such an arrested person, the law enforcement agency having primary jurisdiction to investigate the offense alleged therein shall receive a disposition report of that case from the appropriate court and shall transmit a copy of the disposition report to all the bureaus to which arrest data has been furnished.

SEC. 3. Section 432.7 of the Labor Code is amended to read:

432.7. (a) No employer whether a public agency or private individual or corporation shall ask an applicant for employment to disclose, through any written form or verbally, information concerning an arrest or detention which did not result in conviction, nor shall any employer seek from any source whatsoever, or utilize, as a factor in determining any condition of employment including hiring, promotion, termination, or any apprenticeship training program or any other training program leading to employment, any record of arrest or detention which did not result in conviction. As used in this section, a conviction shall include a plea, verdict, or finding of guilt regardless of whether sentence is imposed by the court. Nothing in this section shall prevent an employer from asking an employee or applicant for employment about an arrest for which the employee or applicant is out on bail or on his or her own recognizance pending trial.

(b) In any case where a person violates any provision of this section, or Article 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part 4 of the Penal Code, the applicant may bring an action to recover from such person actual damages or two hundred dollars ($200), whichever is greater, plus costs, and reasonable

attorney's fees. An intentional violation of this section shall entitle the applicant to treble actual damages, or five hundred dollars ($500), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars ($500).

(c) The remedies under this section shall be in addition to and not in derogation of all other rights and remedies which an applicant may have under any other law.

(d) Persons seeking employment as peace officers or for positions in law enforcement agencies with access to criminal offender record information or for positions with the Division of Law Enforcement of the Department of Justice are not covered by this section.

(e) Nothing in this section shall prohibit an employer at a health facility, as defined in Section 1250 of the Health and Safety Code, from asking an applicant for employment either of the following:

(1) With regard to an applicant for a position with regular access to patients, to disclose an arrest under any section specified in Section 290 of the Penal Code.

(2) With regard to an applicant for a position with access to drugs and medication, to disclose an arrest under any section specified in Section 11590 of the Health and Safety Code.

(f) (1) No peace officer or employee of a law enforcement agency with access to criminal offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose, with intent to affect a person's employment, any information contained therein pertaining to an arrest or detention or proceeding which did not result in a conviction to any person not authorized by law to receive such information.

(2) No other person authorized by law to receive criminal offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose any information received therefrom pertaining to an arrest or detention or proceeding which did not result in a conviction to any person not authorized by law to receive such information.

(3) No person, except those specifically referred to in Section 1070 of the Evidence Code, who knowing he is not authorized by law to receive or possess criminal justice records information maintained by a local law enforcement criminal justice agency, pertaining to an arrest or other proceeding which did not result in a conviction, shall receive or possess such information.

(g) "A person authorized by law to receive such information", for purposes of this section, means any person or public agency authorized by a court, statute, or decisional law to receive information contained in criminal offender records maintained by a local law enforcement criminal justice agency, and includes, but is not limited to, those persons set forth in Section 11105 of the Penal Code, and any person employed by a law enforcement criminal justice agency who is required by such employment to receive, analyze, or process criminal offender record information.

(h) Nothing in this section shall require the Department of Justice to remove entries relating to an arrest or detention not resulting in conviction from summary criminal history records forwarded to an employer pursuant to law.

SEC. 4. It is the intent of the Legislature that nothing in this act shall affect the civil remedy of any person for false arrest or imprisonment.

SEC. 5. Section 3 of this act shall become operative only if Assembly Bill No. 255 is chaptered and becomes effective and in such case shall become operative at the same time as Assembly Bill No. 255.

CHAPTER 1118

An act to amend Sections 68514, 70045.7, 73671, 73672, 73672.1, 73673, 73674, 73676, 73677, 74702, 74702.5, 74703, 74704, 74705, 74708, 74842, 74843, 74845, 74846, and 74847 of, to add Sections 70059.8, 73674.1, and 74851 to, and to repeal Sections 73672.3 and 73672.4 of, the Government Code, relating to courts.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 68514 of the Government Code is amended to read:

68514. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in Napa, San Mateo, or Solano County. Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of each of the counties and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period;

(2) The fees charged and the fees collected for such transcripts;

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts;

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

SEC. 2. Section 70045.7 of the Government Code is amended to

read:

70045 7. In Napa County, each regular official reporter shall be paid an annual salary of thirteen thousand eight hundred dollars ($13,800), and each pro tempore official reporter shall be paid thirty-five dollars ($35) a day for the days he actually is on duty under order of the court.

SEC. 3. Section 70059.8 is added to the Government Code, to read:

70059.8. (a) Notwithstanding any other provision of law, including but not limited to Sections 70040, 70041, 70042 and 70045, the following provisions shall be applicable to the official court reporters in Solano County.

(b) Regular official court reporters shall report all criminal and civil proceedings in their respective courts; all juvenile proceedings, other than those heard by referees or traffic officers when official reporters are unavailable; grand jury proceedings, coroner's inquests, and proceedings before the county board of equalization. When not engaged in the performance of other duties imposed upon him by law, each reporter shall render such assistance as may be required in any other court of the county to which he may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, public hearings and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(c) Each regular official court reporter in a superior court within the county shall be paid an annual salary established according to the following schedule, with one-year increments:

(Range)	(Monthly)	(Annual)
Step 1	$1,242	$14,914
Step 2	$1,305	$15,662
Step 3	$1,372	$16,474
Step 4	$1,442	$17,306
Step 5	$1,515	$18,179

(d) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(e) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court

reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1978, unless ratified by statute by the Legislature prior to that date.

(f) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 of this chapter, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(g) Notwithstanding the provisions of Sections 70053 and 70054:

(1) In order to help defray the costs of reporting services, in addition to any fees otherwise required by law, a fee of sixteen dollars ($16) shall be paid to the county clerk by each party, or jointly by parties appearing jointly, in each of the following instances:

(A) Where Section 26821 requires such party or parties to pay the county clerk a fee for the filing of the first paper in a civil action or in a special proceeding, except in an appeal from an inferior court;

(B) Where Sections 26822 to 26825, inclusive, require such party or parties to pay the county clerk a fee for filing papers transmitted from another court on the transfer of a civil action or special proceeding from another court, except in an appeal from an inferior court;

(C) Where Section 26826 requires the party or parties to pay the clerk a fee on the appearance in a civil action or special proceeding of a defendant, intervenor, respondent, corespondent, or adverse party, except in an appeal from an inferior court;

(D) Where Section 26827 requires such party or parties to pay the county clerk a fee for the filing of a petition or other paper in a probate, guardianship, conservatorship, or other proceeding specified in that section.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

(4) All fees paid under this section shall be taxed as costs.

SEC. 3.2. Section 73671 of the Government Code is amended to read:

73671. This article applies to the municipal court established in the Northern Solano Judicial District, County of Solano.

SEC. 3.5. Section 73672 of the Government Code is amended to

read:

73672. There shall be three judges in the Northern Solano Judicial District.

SEC. 3.8. Section 73672.1 of the Government Code is amended to read:

73672.1. The district shall consist of three divisions as follows:

(a) The western division shall include all of the territory within the Fairfield-Suisun Judicial District on March 7, 1973, and shall be known as the western division.

(b) The eastern division shall include all of the territory within the Vacaville Judicial District on March 7, 1973, and shall be known as the eastern division.

(c) The northern division shall include all of the territory within the Dixon Judicial District on January 1, 1976, and shall be known as the northern division.

SEC. 4. Section 73672.3 of the Government Code is repealed.

SEC. 5. Section 73672.4 of the Government Code is repealed.

SEC. 6. Section 73673 of the Government Code is amended to read:

73673. There shall be one clerk who shall be the administrative officer and who shall receive the salary specified in Section 73677.

SEC. 7. Section 73674 of the Government Code is amended to read:

73674. The clerk may appoint: (a) one chief deputy clerk; (b) three courtroom clerks; (c) two branch court supervisors; (d) three senior deputy clerks; (e) one account clerk III; (f) 18 deputy clerks II or deputy clerks I as may be determined by the judge with the concurrence of the board of supervisors; (g) one legal secretary. Each of these employees shall receive the salary specified in Section 73677 for his classification.

SEC. 8. Section 73674.1 is added to the Government Code, to read:

73674.1. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed upon him by law, each reporter shall render such assistance as may be required in any other court of the county to which he may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(b) Each regular official court reporter shall be paid an annual salary established according to the following schedule, with one-year increments:

(Range)	(Monthly)	(Annual)
Step 1	$1,242	$14,914
Step 2	$1,305	$15,662
Step 3	$1,372	$16,474
Step 4	$1,442	$17,306
Step 5	$1,515	$18,179

(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1978, unless ratified by statute by the Legislature prior to that date.

(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided in Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(f) Fees.

(1) In any civil action or proceeding, in addition to the fees required by Article 2 (commencing with Section 72050) of Chapter 8 of this title, a fee of sixteen dollars ($16) shall be paid to the clerk of the court by each party or jointly by parties appearing jointly, once only in any such action or proceeding, in the following instances:

(A) Upon the filing of a complaint or other first paper.

(B) Upon the filing of the answer or other first paper on behalf of any party (or parties appearing jointly) other than the plaintiff.

(C) Upon the filing of papers transmitted from one court on the transfer of a civil action or special proceeding. The fees so required shall be taxed as costs in favor of the party paying the same and to whom costs are awarded by the judgment of the court. All fees collected under the provisions of this section shall be transmitted to the county treasurer in the same manner as fees collected under Article 2 of Chapter 8 of Title 8.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate

for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

(4) All fees paid under this section shall be taxed as costs

SEC 9. Section 73676 of the Government Code is amended to read:

73676. Whenever a reference to a salary range number is made in this article, the following schedule of salaries shall apply:

Biweekly Salary Schedule

Salary range number	Step 1	Step 2	Step 3	Step 4	Step 5
80	$246.40	$259.20	$272.00	$285.60	$300.80
81	249.60	262.40	275.20	289.60	304.00
82	252.80	265.60	278.40	292.80	308.00
83	256.00	268.80	282.40	296.80	312.00
84	259.20	272.00	285.60	300.80	316.00
85	262.40	275.20	289.60	304.00	320.00
86	265.60	278.40	292 80	308.00	323.20
87	268.80	282.40	296.80	312.00	328.00
88	272.00	285.60	300.80	316.00	332.00
89	275.20	289.60	304.00	320.00	336.00
90	278.40	292.80	308.00	323.20	340.00
91	282.40	296.80	312.00	328.00	344.00
92	285.60	300.80	316.00	332.00	348.80
93	289.60	304.00	320.00	336.00	352.80
94	292.80	308.00	323.20	340.00	357.60
95	296.80	312.00	328.00	344.00	361.60
96	300.80	316.00	332.00	348.80	366.40
97	304.00	320.00	336.00	352 80	371.20
98	308.00	323.20	340.00	357.60	376.00
99	312.00	328.00	344.00	361.60	380.00
100	316.00	332.00	348.80	366.40	385.60
101	320.00	336.00	352.80	371.20	389.60
102	323.20	340.00	357.60	376.00	395.20
103	328.00	344.00	361.60	380.00	400.00
104	332 00	348.80	366.40	385.60	404.80
105	336 00	352.80	371.20	389.60	409 60
106	340.00	357.60	376.00	395.20	415.20
107	344.00	361.60	380.00	400.00	420 00
108	348.80	366.40	385.60	404.80	425.60
109	352.80	371.20	389.60	409.60	430.40
110	357.60	376 00	395.20	415 20	436.00

111	361.60	380.00	400.00	420.00	441.60
112	366.40	385.60	404.80	425.60	447.20
113	371 20	389.60	409.60	430.40	452.80
114	376.00	395.20	415.20	436.00	458.40
115	380.00	400.00	420.00	441.60	464.00
116	385.60	404 80	425.60	447.20	469.60
117	389.60	409.60	430.40	452.80	476 00
118	395.20	415.20	436.00	458.40	481.60
119	400.00	420.00	441.60	464.00	488.00
120	404.80	425.60	447.20	469.60	493.60
121	409.60	430.40	452.80	476.00	500.00
122	415 20	436.00	458.40	481.60	506.40
123	420.00	441.60	464.00	488.00	512.80
124	425.60	447.20	469.60	493.60	519.20
125	430.40	452.80	476.00	500.00	525.60
126	436.00	458.40	481.60	506.40	532.00
127	441.60	464.00	488.00	512.80	538.40
128	447.20	469.60	493.60	519.20	545.60
129	452.80	476.00	500.00	525.60	552.80
130	458.40	481 60	506.40	532.00	559.20
131	464.00	488.00	512.80	538.40	566.40
132	469.60	493.60	519.20	545.60	573.60
133	476.00	500.00	525.60	552.80	580 80
134	481.60	506.40	532.00	559.20	587.20
135	488.00	512.80	538.40	566.40	595.20
136	493.60	519.20	545.60	573.60	602.40
137	500.00	525.60	552.80	580.80	610.40
138	506 40	532.00	559.20	587.20	617.60
139	512.80	538.40	566 40	595.20	625.60
140	519.20	545.60	573.60	602.40	633.60
141	525.60	552.80	580.80	610.40	640.80
142	532.00	559.20	587.20	617.60	648.80
143	538.40	566.40	595.20	625.60	657.60
144	545.60	573.60	602.40	633.60	665.60
145	552.80	580.80	610.40	640.80	673.60
146	559.20	587.20	617.60	648.80	682 40
147	566.40	595.20	625.60	657.60	690.40
148	573.60	602.40	633.60	665.60	699.20
149	580.80	610.40	640.80	673.60	708.00
150	587.20	617.60	648.80	682.40	716.80
151	595.20	625.60	657.60	690.40	725.60
152	602.40	633.60	665.60	699.20	734.40
153	610.40	640.80	673.60	708.00	744.00
154	617.60	648.80	682.40	716.80	753.60
155	625.60	657.60	690.40	725.60	763.20
156	633.60	665.60	699.20	734.40	772.80
157	640.80	673.60	708.00	744.00	781.60
158	648.80	682.40	716.80	753.60	792 00
159	657.60	690.40	725.60	763.20	801.60

160	665.60	699.20	734.40	772.80	812.00
161	673.60	708.00	744.00	781.60	821.60
162	682.40	716.80	753.60	792.00	832.00
163	690.40	725.60	763.20	801.60	842.40

SEC. 10 Section 73677 of the Government Code is amended to read:

73677. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set in the salary schedule contained in Section 73676.

(a) Deputy clerk I ..... Range 83
(b) Deputy clerk II ..... Range 88
(c) Senior deputy clerk ..... Range 96
(d) Legal secretary ..... Range 96
(e) Account clerk III ..... Range 100
(f) Municipal courtroom clerk ..... Range 103
(g) Branch court supervisor ..... Range 103
(h) Chief deputy clerk ..... Range 127
(i) Clerk ..... Range 147

Each person employed on the effective date of this section in the office of the clerk, including the clerk, shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and his prior service shall be deemed service in the new position, provided, however, that such credit shall be given only when the presiding judge of the court determines that the officer or employee is entitled to receive it. Officers and employees shall be appointed at the first step for the range assigned to their classification except if it is difficult to secure qualified personnel, or if a person of unusual qualifications is appointed, the judge may appoint such person at the second step of the range assigned to that classification.

In the case of the appointment of the clerk of the municipal court, the judges shall be authorized, if they deem it necessary, to appoint the clerk at a higher step, not to exceed the fifth step of the range assigned to that classification as set forth in Section 73676, and, provided further, that if the judges are unable to secure a qualified person to fulfill the position of clerk of the municipal court for a salary as hereinabove provided, then the judges with the concurrence of the board of supervisors may establish a salary at a rate not to exceed eight hundred twelve dollars ($812) biweekly.

SEC. 10.1. Section 74702 of the Government Code is amended to read:

74702. There shall be one clerk who shall receive a salary as specified in range 721 of the salary schedule.

SEC. 10.2. Section 74702.5 of the Government Code is amended to read:

74702.5. The judges of the municipal court may appoint a court administrator who shall assume and discharge the clerk's administrative responsibilities and personnel appointive powers.

The court administrator shall receive a salary as specified in range 818 of the salary schedule.

SEC. 10.3. Section 74703 of the Government Code is amended to read:

74703. Assistant clerks and other municipal court clerical employees shall receive salaries as follows:

	Salary range
Assistant clerk	468
Executive secretary	468
Deputy clerk IV	415
Clerk-typist IV	415
Account clerk II	378
Deputy clerk III	369
Clerk-typist III	369
Deputy clerk II	320
Clerk-typist II	320
Deputy clerk I	290
Clerk-typist I	290

SEC. 10.4. Section 74704 of the Government Code is amended to read:

74704. (a) Whenever reference is made to a numbered salary range in any section of this article, the salary schedule found in the salary ordinance of Sonoma County in effect July 1, 1975, shall apply.

(b) When an individual is initially employed in any position prescribed by this article, they shall be compensated in a manner identical to that afforded county employees through the provisions of the Sonoma County salary ordinance.

SEC. 10.5. Section 74705 of the Government Code is amended to read:

74705. Certain classes of employment in the municipal courts are deemed to be equivalent in job and salary level to certain classes in the service of the County of Sonoma, or in some instances, to such classes plus or minus a specified percentage rate. Whenever the salary of those classes in the service of the County of Sonoma is adjusted by the board of supervisors, the salary of the comparable classes in the municipal courts shall be adjusted to a like extent plus or minus the percentage rate specified in this section, if applicable. Such adjustment shall become effective on the same date as the effective date of the action by the board of supervisors, as it applies to the classes in the service of the county, but such adjustments shall remain effective only until January 1, 1977.

Municipal court classification	County classification
Clerk	Assistant county clerk, plus 2.5%
Assistant clerk	Executive secretary
Executive secretary	Executive secretary
Deputy clerk IV	Clerk-typist IV
Clerk-typist IV	Clerk-typist IV
Deputy clerk III	Clerk-typist III
Clerk-typist III	Clerk-typist III
Deputy clerk II	Clerk-typist II
Clerk-typist II	Clerk-typist II
Deputy clerk I	Clerk-typist I
Clerk-typist I	Clerk-typist I
Court administrative officer	Court administrative officer/Jury commissioner
Account clerk II	Account clerk II

SEC. 10.6. Section 74708 of the Government Code is amended to read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:

(a) There shall be four judges who may together appoint one executive secretary and one clerk-typist, grade IV.

(b) There shall be one clerk, who may appoint:

(1) Two assistant clerks.

(2) Six deputy clerks, grade IV.

(3) Twelve deputy clerks, grade III.

(4) Twelve deputy clerks, grade II.

(5) One account clerk, grade II.

(6) One clerk-typist, grade III.

(7) One clerk-typist, grade II.

SEC. 11. Section 74842 of the Government Code is amended to read:

74842. There shall be one clerk who shall be the administrative officer and who shall receive the salary specified in Section 74847.

SEC. 12. Section 74843 of the Government Code is amended to read:

74843. The clerk may appoint:

(a) One chief deputy clerk.

(b) Two municipal courtroom clerks.

(c) One branch court supervisor

(d) One account clerk III.

(e) Three senior deputy clerks.

(f) One legal secretary.

(g) Fifteen deputy clerks II or deputy clerks I as shall be determined by the judges with the concurrence of the board of

supervisors.

Each of these employees shall receive the salary specified in Section 74847 for his classification.

SEC. 13. Section 74845 of the Government Code is amended to read:

74845. The marshal may appoint:

(a) One chief deputy marshal-office supervisor.

(b) Five deputy marshals II or deputy marshals I, as shall be determined by the judges with the concurrence of the board of supervisors, provided, however, that two additional deputy marshals may be appointed upon the determination of the judges with the concurrence of the board of supervisors.

(c) Three deputy marshals—female.

(d) One clerk II.

(e) One sergeant-marshal.

Each of these employees shall receive the salary specified in Section 74847 for his classification.

SEC. 14. Section 74846 of the Government Code is amended to read:

74846. Whenever a reference to a salary range number is made in this article, the Biweekly Salary Schedule of ranges and salaries provided in Section 73676, shall apply.

SEC. 15. Section 74847 of the Government Code is amended to read:

74847. Persons employed in any of the positions authorized by this article except the marshal shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 74846:

Position	Range
(a) Clerk II	80
(b) Deputy clerk I	83
(c) Deputy clerk II	88
(d) Senior deputy clerk	96
(e) Legal secretary	96
(f) Deputy marshal—female	99
(g) Account clerk III	100
(h) Municipal courtroom clerk	103
(i) Branch court supervisor	103
(j) Deputy marshal I	123
(k) Chief deputy clerk	127
(l) Deputy marshal II	127
(m) Chief deputy marshal-office supervisor	129
(n) Sergeant-marshal	138
(o) Clerk	147

Each person employed in the office of the clerk and the office of the marshal, including the clerk and the marshal, on the effective date of the amendments to this section enacted at the 1967 Regular

Session of the Legislature shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and his prior service shall be deemed service in the new position, provided, however, that such credit shall be given only when the judges of the court determine that the officer or employee is entitled to receive it. The clerk, deputy clerks, and the attachés of the court shall be appointed at the first step for the range assigned to their classification, except if it is difficult to secure qualified personnel, or if a person of unusual qualifications is hired, the judges may appoint such person at the second step of the range assigned to that classification. In the case of the appointment of the clerk of the municipal court, the judges shall be authorized, if they deem it necessary, to appoint the clerk at a higher step, not to exceed the fifth step of the range assigned to that classification as set forth in Section 74846, and, provided, further, that if the judges are unable to secure a qualified person to fulfill the position of clerk of the municipal court for a salary as hereinabove provided, then the judges with the concurrence of the board of supervisors may establish a salary at a rate not to exceed eight hundred twelve dollars ($812) biweekly.

SEC. 16. Section 74851 is added to the Government Code, to read:

74851. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed upon him by law, each reporter shall render such assistance as may be required in any other court of the county to which he may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(b) Each regular official court reporter shall be paid an annual salary established according to the following schedule, with one-year increments:

(Range)	(Monthly)	(Annual)
Step 1	$1,242	$14,914
Step 2	$1,305	$15,662
Step 3	$1,372	$16,474
Step 4	$1,442	$17,306
Step 5	$1,515	$18,179

(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the

majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1978, unless ratified by statute by the Legislature prior to that date.

(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(f) Fees.

(1) In any civil action or proceeding, in addition to the fees required by Article 2 (commencing with Section 72050) of Chapter 8 of this title, a fee of sixteen dollars ($16) shall be paid to the clerk of the court by each party or jointly by parties appearing jointly, once only in any such action or proceeding, in the following instances:

(A) Upon the filing of a complaint or other first paper.

(B) Upon the filing of the answer or other first paper on behalf of any party (or parties appearing jointly) other than the plaintiff.

(C) Upon the filing of papers transmitted from one court on the transfer of a civil action or special proceeding. The fees so required shall be taxed as costs in favor of the party paying the same and to whom costs are awarded by the judgment of the court All fees collected under the provisions of this section shall be transmitted to the county treasurer in the same manner as fees collected under Article 2 of Chapter 8 of this title.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth (6th) and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day

(4) All fees paid under this section shall be taxed as costs.

SEC. 17. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for

court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Napa and Solano Counties is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in these counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such counties.

SEC. 18. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act is in accordance with the request of local government entities which desired legislative authority to act to carry out the program specified in this act.

SEC. 19. Sections 3.2, 3.5, 3.8, and 5 of this act which amend Sections 73671, 73672, 73672.1, and repeal Section 73672.4 of the Government Code, respectively, shall become operative only if the Solano County Board of Supervisors enacts an ordinance consolidating the Fairfield-Suisun-Vacaville and Dixon Judicial Districts, and in such case shall become operative at the same time as such ordinance becomes operative.

CHAPTER 1119

An act to amend Sections 456.5 and 456.6 of, and add Section 64 to, the Elections Code, and to add Section 12172 to the Government Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 64 is added to the Elections Code, to read:

64. The Secretary of State is the chief elections officer of the state, and has the powers and duties specified in Section 12172 of the Government Code.

SEC. 2. Section 456.5 of the Elections Code is amended to read:

456.5. If the county clerk maintains tabulating cards containing the information set forth in the affidavits of registration of voters, or sets forth that information on electronic data-processing tape, he

shall forward to the Secretary of State one copy of a data-processing tape file setting forth the information contained on such cards or tape, together with a statement of the format of such tape file, at each of the following times:

(a) Not less than 30 days prior to the primary election.

(b) Not less than seven days prior to the primary election, with respect to voters who registered after the 54th day before the election.

(c) Not less than 30 days prior to the general election.

(d) Not less than seven days prior to the general election, with respect to voters who registered after the 54th day before the election.

(e) On or before May 1 of each odd-numbered year.

(f) On or before October 1 of each odd-numbered year.

(g) On the 135th day before each presidential primary and before each direct primary.

The Secretary of State may adopt regulations prescribing the format of the information contained on such cards or tapes.

The Secretary of State may adopt regulations prescribing additional regular reporting times, except that the total number of reporting times in any one calendar year shall not exceed 12.

The Secretary of State shall make the information on such data-processing tape files available, under conditions prescribed by the Secretary of State, to any candidate for federal, state, or local office, to any committee for or against any proposed ballot measure, to any committee for or against any referendum or initiative measure for which legal publication is made, and to any person for election or governmental purposes as determined by the Secretary of State.

SEC. 2.5. Section 456.6 of the Elections Code is amended to read:

456.6. If the county clerk does not maintain tabulating cards containing the information set forth in the affidavits of registration of voters, nor sets forth that information on electronic data-processing tape, he shall forward to the Secretary of State one copy of the index of registered voters at each of the following times:

(a) Not less than 30 days prior to the primary election

(b) Not less than seven days prior to the primary election, with respect to voters who registered after the 54th day before the election.

(c) Not less than 30 days prior to the general election.

(d) Not less than seven days prior to the general election, with respect to voters who registered after the 54th day before the election.

(e) On or before May 1 of each odd-numbered year.

(f) On or before October 1 of each odd-numbered year.

(g) On the 135th day before each presidential primary and before each direct primary.

The Secretary of State shall make such information available, under conditions prescribed by the Secretary of State, to any

candidate for federal, state, or local office, to any committee for or against any proposed ballot measure, to any committee for or against any referendum or initiative measure for which legal publication is made, and to any person for election or governmental purposes as determined by the Secretary of State.

SEC. 3. Section 12172 is added to the Government Code, to read:

12172. The Secretary of State is the chief elections officer of the state, and shall administer the provisions of the Elections Code. The Secretary of State shall see that elections are efficiently conducted and that state election laws are enforced. The Secretary of State may require elections officers to make reports concerning elections in their jurisdictions.

If, at any time, the Secretary of State concludes that state election laws are not being enforced, the Secretary of State shall call the violation to the attention of the district attorney of the county or to the Attorney General. In these instances, the Secretary of State may assist the county elections officer in discharging his duties.

SEC. 4. The Secretary of State may adopt regulations to assure the uniform application and administration of state election laws.

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

In order that the Secretary of State may conduct administrative hearings and adopt regulations sufficiently in advance of the 1976 elections, it is necessary that this act go into effect immediately.

CHAPTER 1120

An act to amend Section 12615 of, and to add Section 12604.5 to, the Business and Professions Code, relating to pricing consumer commodities.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 12604.5 is added to the Business and Professions Code, to read:

12604.5. (a) Every retail grocery store or grocery department within a general retail merchandise store which uses an automatic checkout system shall cause to have a clearly readable price indicated on each packaged consumer commodity offered for sale from April 1, 1976, to April 1, 1977.

(b) The provisions of this section shall not apply to unpackaged fresh food produce, or to consumer commodities which are under three cubic inches in size, weigh less than three ounces, and are

priced under thirty cents ($0.30).

(c) The provisions of this section shall not apply to any consumer commodity which was not generally item-priced on June 30, 1975. The Department of Consumer Affairs shall determine what consumer commodities were generally item-priced in California on this date for the purposes of this section. However, the provisions of this section shall apply to each consumer commodity not excepted by subdivision (b) which is offered for sale in a grocery store or grocery department which utilizes an automatic checkout system.

(d) The provisions of this section shall not apply to any consumer commodity offered as a sale item or as a weekend special.

(e) For the purposes of this section:

(1) "Automatic checkout systems" means a computer capable of reading the universal product code or similar code to determine the price of the items being purchased.

(2) "Consumer commodity" includes:

(A) Food, including all material, whether solid, liquid, or mixed, and whether simple or compound, which is used or intended for consumption by human beings or domestic animals normally kept as household pets, and all substances or ingredients added to any such material for any purpose. This definition shall not apply to individual packages of cigarettes or individual cigars

(B) Napkins, facial tissues, toilet tissues, foil wrapping, plastic wrapping, paper toweling, and disposable plates and cups.

(C) Detergents, soaps, and other cleaning agents.

(D) Pharmaceuticals, including nonprescription drugs, bandages, female hygiene products, and toiletries.

(3) "Grocery department" means an area within a general retail merchandise store which is engaged primarily in the retail sale of packaged food, rather than food prepared for immediate consumption on or off the premises.

(4) "Grocery store" means a store engaged primarily in the retail sale of packaged food, rather than food prepared for consumption on the premises.

(5) "Sale item or weekend special" means any consumer commodity offered for a period of four days or less on sale in good faith at a price below the normal price that item is usually sold for in that store.

(f) This section shall not apply to any business which has as its only regular employees the owner thereof, or the parent, spouse, or child of such owner, or, in addition thereto, not more than two other regular employees.

SEC. 2. Section 12615 of the Business and Professions Code is amended to read:

12615. (a) Failure to have a clearly readable price indicated on 12 individual items of the same commodity shall constitute a violation of this chapter punishable by a civil fine of not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(b) Every additional 12 items not priced in compliance with

Section 12604.5 shall constitute a separate violation. Each day that a violation continues shall also constitute a separate violation.

(c) Notwithstanding any other provision of law, any person may bring an action to enjoin a violation of Section 12604.5.

SEC. 3. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1121

An act to amend Section 22601 of the Education Code, relating to the California State University and Colleges.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 22601 of the Education Code is amended to read:

22601. The board shall be composed of the following four ex officio members: the Governor, the Lieutenant Governor, the Superintendent of Public Instruction, and the person named by the trustees to serve as the Chancellor of the California State University and Colleges; and 16 appointive members appointed by the Governor and subject to confirmation by two-thirds of the Senate. There shall also be appointed by the Governor for a one-year term, a student from a California state university or college who shall have at least a junior year standing at the institution he or she attends, and shall remain in good standing as a student for the one-year term. In the selection of a student as a member of the board, the Governor shall appoint such student from a list of names of not more than five persons furnished by student representatives of each of the universities and colleges of the California State University and Colleges. The student representative of a university or college shall be the elected student body president or, in the case of a university or college not having an elected student body president, the person receiving the highest number of votes cast at a student body election held to select such student representative. The Speaker of the Assembly shall be an ex officio member, having equal rights and duties with nonlegislative members.

SEC. 2. Section 22601 of the Education Code is amended to read:

22601. The board shall be composed of the following: (a) five ex officio members, to wit, the Governor, the Lieutenant Governor, the Superintendent of Public Instruction, the person named by the

trustees to serve as the Chancellor of the California State University and Colleges, and the Speaker of the Assembly; (b) a representative of the alumni association of the state university and colleges, selected by the alumni; (c) 16 appointive members appointed by the Governor and subject to confirmation by two-thirds of the Senate pursuant to Chapter 3.5 (commencing with Section 22621) of this division; and (d) a voting student member of the state university and colleges selected by the Governor, for a one-year term, who shall have at least a junior year standing at the institution he or she attends, and shall remain in good standing as a student for the one-year term. In the selection of a student as a member of the board, the Governor shall appoint such student from a list of names furnished by student representatives of each of the universities and colleges of the California State University and Colleges. The student representative of a university or college shall be the elected student body president or, in the case of a university or college not having an elected student body president, the person receiving the highest number of votes cast at a student body election held to select such student representative.

The board shall, in addition, include a voting faculty member selected by the faculty from nominations submitted by faculty organizations, except when the creation of such a position is opposed by the statewide faculty senate. Selection procedures and length of terms for alumni and faculty members, if any, shall be determined by the board after consultation with alumni and faculty organizations; provided that the terms of any such members shall extend for at least one year. The process for determining selection procedures and length of terms for alumni and faculty members shall include consultation with representatives of alumni and faculty organizations.

Notwithstanding any other provision of law to the contrary, appointive board members appointed prior to January 1, 1976, shall serve out the remainder of their respective terms, subject to Sections 22601.5 and 22602, and the appointments of their successors shall be made pursuant to this section.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill No. 240 are both chaptered and become effective January 1, 1976, both bills amend Section 22601 of the Education Code, and this bill is chaptered after Assembly Bill No. 240, that the amendments to Section 22601 proposed by both bills be given effect and incorporated in Section 22601 in the form set forth in Section 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Assembly Bill No. 240 are both chaptered and become effective January 1, 1976, both amend Section 22601, and this bill is chaptered after Assembly Bill No. 240, in which case Section 1 of this act shall not become operative.

SEC. 4. It is the intent of the Legislature that the amendment made by this act to Section 22601 of the Education Code by adding a student of a California state university or college to the Trustees of

the California State University and Colleges shall not be construed as precluding input to the trustees by the Student Presidents' Association of the California State University and Colleges.

CHAPTER 1122

An act to amend Section 31295.3 of the Education Code, relating to higher education.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 31295.3 of the Education Code is amended to read:

31295.3. To be eligible for an occupational education and training grant under this chapter, an applicant shall meet all of the following requirements:

(a) Be a resident of the State of California, as defined in subdivision (a) of Section 31203.

(b) Be a citizen of the United States or have been admitted to permanent residence.

(c) Demonstrate occupational achievement or aptitude and financial need. In determining occupational achievement or aptitude, the commission may use acceptable testing procedures to the extent these are available. In determining financial need of an applicant, the commission shall expect each student to make a self-help contribution toward occupational or technical training costs and the financial status of his parents shall be taken into consideration.

(d) Use his grant for occupational or technical training in California in institutions which are either accredited or are candidates for accreditation by the Western Association of Schools and Colleges or by a national accrediting association recognized by the U.S. Office of Education or in the California Maritime Academy established pursuant to Chapter 3 (commencing with Section 25951) of Division 19. As used in this section, "occupational or technical training" shall mean that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission, which shall include three-year hospital-based programs to train licensed registered nurses approved by the Board of Registered Nursing.

(e) Have applied for a state occupational education and training grant and have met the criteria established by the commission for eligibility for such grant.

(f) Have complied with all of the rules and regulations adopted by the commission for the award, regulation, and administration of state

occupational education and training grants adopted pursuant to this chapter.

CHAPTER 1123

An act to add Section 17504 to the Business and Professions Code, relating to advertising of consumer goods.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 17504 is added to the Business and Professions Code, to read:

17504. (a) Any person, partnership, corporation, firm, joint stock company, association, or organization engaged in business in this state as a retail seller who sells any consumer good which is sold only in multiple units and which is advertised by price shall advertise such goods at the price of the minimum multiple unit in which they are offered.

(b) Nothing contained in subdivision (a) shall prohibit a retail seller from advertising any consumer good for sale at a single unit price where such goods are sold only in multiple units and not in single units as long as the advertisement also discloses, at least as prominently, the price of the minimum multiple unit in which they are offered.

(c) For purposes of subdivision (a), "consumer good" means any article which is used or bought for use primarily for personal, family, or household purposes, but does not include any food item.

(d) For purposes of subdivision (a), "retail seller" means an individual, firm, partnership, corporation, joint stock company, association, organization, or other legal relationship which engages in the business of selling consumer goods to retail buyers.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1124

An act to amend Section 65302 of the Government Code, to amend Sections 17922.6 and 17922.7 of, to add Sections 17922.8 and 39850.1 to, and to repeal Section 17926 of, the Health and Safety Code, relating to noise control.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land-use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land-use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land-use element shall also identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to such areas.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land-use element of the plan.

(c) A housing element, to be developed pursuant to regulations established under Section 41134 of the Health and Safety Code, consisting of standards and plans for the improvement of housing and for provision of adequate sites for housing. This element of the plan shall make adequate provision for the housing needs of all economic segments of the community.

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Flood control.

(3) Prevention and control of the pollution of streams and other waters.

(4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(5) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(6) Protection of watersheds.

(7) The location, quantity and quality of the rock, sand and gravel resources.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560) of this chapter.

(f) A seismic safety element consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and seiches.

The seismic safety element shall also include an appraisal of mudslides, landslides, and slope stability as necessary geologic hazards that must be considered simultaneously with other hazards such as possible surface ruptures from faulting, ground shaking, ground failure and seismically induced waves.

(g) A noise element, which shall recognize guidelines adopted by the Office of Noise Control pursuant to Section 39850.1 of the Health and Safety Code, and which quantifies the community noise environment in terms of noise exposure contours for both near and long-term levels of growth and traffic activity. Such noise exposure information shall become a guideline for use in development of the land use element to achieve noise compatible land use and also to provide baseline levels and noise source identification for local noise ordinance enforcement.

The sources of environmental noise considered in this analysis shall include, but are not limited to, the following:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment

The noise exposure information shall be presented in terms of noise contours expressed in community noise equivalent level

(CNEL) or day-night average level (L_{dn}). CNEL means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five decibels to sound levels in the evening from 7 p.m. to 10 p.m. and after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m. L_{dn} means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m.

The contours shall be shown in minimum increments of 5 db and shall continue down to 60 db. For areas deemed noise sensitive, including, but not limited to, areas containing schools, hospitals, rest homes, long-term medical or mental care facilities, or any other land use areas deemed noise sensitive by the local jurisdiction, the noise exposure shall be determined by monitoring.

A part of the noise element shall also include the preparation of a community noise exposure inventory, current and projected, which identifies the number of persons exposed to various levels of noise throughout the community.

The noise element shall also recommend mitigating measures and possible solutions to existing and foreseeable noise problems.

The state, local, or private agency responsible for the construction, maintenance, or operation of those transportation, industrial, or other commercial facilities specified in paragraph 2 of this subdivision shall provide to the local agency producing the general plan, specific data relating to current and projected levels of activity and a detailed methodology for the development of noise contours given this supplied data, or they shall provide noise contours as specified in the foregoing statements.

It shall be the responsibility of the local agency preparing the general plan to specify the manner in which the noise element will be integrated into the city or county's zoning plan and tied to the land use and circulation elements and to the local noise ordinance. The noise element, once adopted, shall also become the guideline for determining compliance with the state's noise insulation standards, as contained in Section 1092 of Title 25 of the California Administrative Code.

(h) A scenic highway element for the development, establishment, and protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

The requirements of this section shall apply to charter cities.

SEC. 1.5. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan proposals. The plan shall include the following elements:

(a) A land-use element which designates the proposed general distribution and general location and extent of the uses of the land

for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land-use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land-use element shall also identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to such areas.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land-use element of the plan.

(c) A housing element, to be developed pursuant to regulations established under Section 41134 of the Health and Safety Code, consisting of standards and plans for the improvement of housing and for provision of adequate sites for housing. This element of the plan shall make adequate provision for the housing needs of all economic segments of the community.

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

(1) The reclamation of land and waters.

(2) Flood control.

(3) Prevention and control of the pollution of streams and other waters.

(4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.

(5) Prevention, control, and correction of the erosion of soils, beaches, and shores.

(6) Protection of watersheds.

(7) The location, quantity and quality of the rock, sand and gravel resources.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560) of this chapter.

(f) A seismic safety element consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and seiches.

The seismic safety element shall also include an appraisal of

mudslides, landslides, and slope stability as necessary geologic hazards that must be considered simultaneously with other hazards such as possible surface ruptures from faulting, ground shaking, ground failure and seismically induced waves.

(g) A noise element, which shall recognize guidelines adopted by the Office of Noise Control pursuant to Section 39850.1 of the Health and Safety Code, and which quantifies the community noise environment in terms of noise exposure contours for both near and long-term levels of growth and traffic activity. Such noise exposure information shall become a guideline for use in development of the land use element to achieve noise compatible land use and also to provide baseline levels and noise source identification for local noise ordinance enforcement.

The sources of environmental noise considered in this analysis shall include, but are not limited to, the following:

(1) Highways and freeways.

(2) Primary arterials and major local streets.

(3) Passenger and freight on-line railroad operations and ground rapid transit systems.

(4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(5) Local industrial plants, including, but not limited to, railroad classification yards.

(6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

The noise exposure information shall be presented in terms of noise contours expressed in community noise equivalent level (CNEL) or day-night average level (L_{dn}). CNEL means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five decibels to sound levels in the evening from 7 p.m. to 10 p.m. and after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m. L_{dn} means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m.

The contours shall be shown in minimum increments of 5 db and shall continue down to 60 db. For areas deemed noise sensitive, including, but not limited to, areas containing schools, hospitals, rest homes, long-term medical or mental care facilities, or any other land use areas deemed noise sensitive by the local jurisdiction, the noise exposure shall be determined by monitoring.

A part of the noise element shall also include the preparation of a community noise exposure inventory, current and projected, which identifies the number of persons exposed to various levels of noise throughout the community.

The noise element shall also recommend mitigating measures and possible solutions to existing and foreseeable noise problems.

The state, local, or private agency responsible for the construction, maintenance, or operation of those transportation, industrial, or other commercial facilities specified in paragraph 2 of this subdivision shall provide to the local agency producing the general plan, specific data relating to current and projected levels of activity and a detailed methodology for the development of noise contours given this supplied data, or they shall provide noise contours as specified in the foregoing statements.

It shall be the responsibility of the local agency preparing the general plan to specify the manner in which the noise element will be integrated into the city or county's zoning plan and tied to the land use and circulation elements and to the local noise ordinance. The noise element, once adopted, shall also become the guideline for determining compliance with the state's noise insulation standards, as contained in Section 1092 of Title 25 of the California Administrative Code.

(h) A scenic highway element for the development, establishment, and protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(i) A safety element for the protection of the community from fires and geologic hazards including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures, and geologic hazard mapping in areas of known geologic hazards.

The requirements of this section shall apply to charter cities.

SEC. 2. Section 17922.6 of the Health and Safety Code is amended to read:

17922.6. (a) The Office of Noise Control in coordination with the department shall adopt, amend, and repeal rules and regulations which establish uniform minimum noise insulation standards for hotels, motels, apartment houses, and dwellings, other than detached single-family dwellings.

(b) Such standards shall be performance standards in order to require compliance onsite where the hotel, motel, apartment house, or dwelling, other than a detached single-family dwelling, is located.

(c) Such standards shall be sufficient to protect persons within the hotel, motel, apartment house, or dwelling, other than a detached single-family dwelling, from the effects of excessive noise, including, but not limited to, hearing loss or impairment and persistent interference with speech and sleep.

(d) The provisions of this section and the rules and regulations adopted pursuant to this section shall apply equally to those hotels, motels, apartment houses, and dwellings, other than detached single-family dwellings, owned, operated, or maintained by any public entity. The department shall enforce such rules and regulations with respect to any such hotel, motel, apartment house, or dwelling, other than a detached single-family dwelling, which is not subject to the jurisdiction of any local building department.

(e) The provisions of this section and the rules and regulations adopted pursuant to this section shall not apply to detached single-family dwellings.

(f) Such rules and regulations shall become operative six months after their date of adoption.

(g) Sections 17925, 17958, 17958.5, and 17958.7 shall not apply to the provisions of this section.

SEC. 3. Section 17922.7 of the Health and Safety Code is amended to read:

17922.7. (a) Except as otherwise provided in subdivisions (b) and (c) the governing body of every city, county, city and county, and public entity, shall adopt ordinances or regulations imposing the same requirements as are contained in the rules and regulations adopted pursuant to Section 17922.6 within six months after the date of adoption of such rules and regulations. The rules and regulations adopted pursuant to Section 17922.6 shall apply in any city, county, city and county, or to any hotel, motel, apartment house, or dwelling, other than a detached single-family dwelling, which is owned, operated, or maintained by any public entity, if the appropriate governing body fails to adopt such ordinances or regulations within six months after such date of adoption.

(b) In adopting such ordinances or regulations, the governing body of any city, county, city and county, or public entity may make such changes or modifications in the requirements contained in the rules and regulations adopted pursuant to Section 17922.6 as such governing body determines are reasonably necessary because of local conditions, but only if the governing body finds that such ordinances or regulations will require the diminution of the noise levels permitted by the rules and regulations adopted pursuant to Section 17922.6.

(c) Prior to making such modifications or changes pursuant to subdivision (b), the governing body shall make an express finding that such modifications or changes are needed, which finding shall be available as a public record. A copy of such finding, together with the modification or change, shall be filed with the Office of Noise Control.

SEC. 4. Section 17922.8 is added to the Health and Safety Code, to read:

17922.8 The Office of Noise Control may appoint an advisory committee to assist the office in reviewing and revising the noise insulation standards previously adopted by the commission.

SEC. 5. Section 17926 of the Health and Safety Code is repealed.

SEC. 6. Section 39850.1 is added to the Health and Safety Code, to read:

39850 1 Notwithstanding Section 34211.1 of the Government Code, the office shall adopt, in coordination with the Council on Intergovernmental Relations and each state department and agency as it deems appropriate, guidelines for the preparation and content of noise elements as required by subdivision (g) of Section 65302 of

the Government Code.

In adding this section and amending Section 65302 of the Government Code, it is the intent of the Legislature to assure, insofar as possible, that new and periodically revised noise elements in local governments' general plans shall be more standardized, comprehensive, and utilitarian than has heretofore been the case.

However, the Legislature also recognizes that some cities and counties have already adopted noise elements pursuant to the existing Section 65302 of the Government Code and that others have received extensions on the due date of their noise element until September 20, 1975. Such cities and counties shall not be required to resubmit new noise elements consistent with the provisions of Section 65302 of the Government Code, or recognizing guidelines adopted pursuant to this section, but shall, upon initial and periodic revision of the noise element, comply with such provisions and recognize such guidelines.

SEC. 6.5. Section 39850.1 is added to the Health and Safety Code, to read:

39850.1. Notwithstanding Section 65040.2 of the Government Code, the office shall adopt, in coordination with the Office of Planning and Research and each state department and agency as it deems appropriate, guidelines for the preparation and content of noise elements as required by subdivision (g) of Section 65302 of the Government Code.

In adding this section and amending Section 65302 of the Government Code, it is the intent of the Legislature to assure, insofar as possible, that new and periodically revised noise elements in local governments' general plans shall be more standardized, comprehensive, and utilitarian than has heretofore been the case.

However, the Legislature also recognizes that some cities and counties have already adopted noise elements pursuant to the existing Section 65302 of the Government Code and that others have received extensions on the due date of their noise element until September 20, 1975. Such cities and counties shall not be required to resubmit new noise elements consistent with the provisions of Section 65302 of the Government Code, or recognizing guidelines adopted pursuant to this section, but shall, upon initial and periodic revision of the noise element, comply with such provisions and recognize such guidelines.

SEC. 7. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

SEC. 8. It is the intent of the Legislature, if this bill and Senate Bill No. 271 are both chaptered and become effective January 1, 1976, both bills amend Section 65302 of the Government Code, and this bill is chaptered after Senate Bill No. 271, that the amendments to

Section 65302 proposed by both bills be given effect and incorporated in Section 65302 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill No. 271 are both chaptered and become effective January 1, 1976, both amend Section 65302, and this bill is chaptered after Senate Bill No. 271, in which case Section 1 of this act shall not become operative.

SEC. 9. It is the intent of the Legislature, if this bill and Assembly Bill No. 551 are both chaptered and become effective January 1, 1976, and this bill is chaptered after Assembly Bill No. 551, that Section 6.5 of this act shall become operative and Section 6 of this act shall not become operative. Therefore, Section 6.5 of this act shall become operative only if this bill and Assembly Bill No. 551 are both chaptered and become effective January 1, 1976, and this bill is chaptered after Assembly Bill No. 551, in which case Section 6 of this act shall not become operative.

CHAPTER 1125

An act to amend Sections 27706 and 27707.1 of, and to add Part 7 (commencing with Section 15400) to Division 3 of Title 2 of the Government Code, and to amend Sections 1239 and 1241 of, and to add Section 1240 to, the Penal Code, relating to counsel in criminal cases.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Part 7 (commencing with Section 15400) is added to Division 3 of Title 2 of the Government Code, to read:

PART 7. STATE PUBLIC DEFENDER

CHAPTER 1. GENERAL PROVISIONS

15400. The Governor shall appoint a State Public Defender, subject to confirmation by the Senate. The State Public Defender shall be a member of the State Bar, shall have been a member of the State Bar during the five years preceding appointment, and shall have had substantial experience in the representation of accused or convicted persons in criminal or juvenile proceedings during that time.

15401. (a) The State Public Defender shall be appointed for a term of four years commencing on January 1, 1976, and shall serve until the appointment and qualification of his successor. Any vacancy shall be filled for the balance of the unexpired term.

(b) The State Public Defender shall receive the same annual salary as the Attorney General.

15402. The State Public Defender may employ such deputies and other employees, and establish and operate such offices, as he may need for the proper performance of his duties. All civil service examinations for attorney positions shall be on an open basis without career civil service credits given to any person. The State Public Defender may contract with county public defenders, private attorneys, and nonprofit corporations organized to furnish legal services to persons who are not financially able to employ counsel and pay a reasonable sum for those services pursuant to such contracts. He may provide for participation by such attorneys and organizations in his representation of eligible persons. Such attorneys and organizations shall serve under the supervision and control of the State Public Defender and shall be compensated for their services either under such contracts or in the manner provided in Penal Code Section 1241.

The State Public Defender may also enter into reciprocal or mutual assistance agreements with the board of supervisors of one or more counties to provide for exchange of personnel for the purposes set forth in Section 27707.1.

15403. The State Public Defender shall formulate plans for the representation of indigents in the Supreme Court and in each appellate district as provided in this article. Each plan shall be adopted upon the approval of the court to which the plan is applicable. Any such plan may be modified or replaced by the State Public Defender with the approval of the court to which the plan is applicable.

15404. The State Public Defender may issue any regulations and take any actions as may be necessary for proper implementation of this part.

CHAPTER 2. DUTIES AND POWERS

15420. The primary responsibility of the State Public Defender is to represent those persons who are entitled to representation at public expense in the proceedings listed in subdivisions (a), (b), and (c) of Section 15421. This responsibility shall take precedence over all other duties and powers set forth in this chapter.

15421. Upon appointment by the court or upon the request of the person involved the State Public Defender is authorized to represent any person who is not financially able to employ counsel in the following matters:

(a) An appeal, petition for hearing, or petition for rehearing to any appellate court, a petition for certiorari to the United States Supreme Court, or a petition for executive clemency from a judgment relating to criminal or juvenile court proceedings;

(b) A petition for an extraordinary writ or an action for injunctive or declaratory relief relating to a final judgment of conviction or

wardship, or to the punishment or treatment imposed thereunder;

(c) A proceeding of any nature after a judgment of death has been rendered;

(d) A proceeding of any nature where a person is entitled to representation at public expense.

15422 Where a county public defender has refused, or is otherwise reasonably unable to represent a person because of conflict of interest or other reason, the State Public Defender is authorized to represent such person, pursuant to a contract with the county which provides for reimbursement of costs, where the person is not financially able to employ counsel and is charged with the commission of any contempt or offense triable in the superior, municipal or justice courts at all stages of any proceedings relating to such charge, including restrictions on liberty resulting from such charge. The State Public Defender may decline to represent such person by filing a letter with the appropriate court citing Section 15420 of this chapter.

15423. The State Public Defender is authorized to appear as a friend of the court and may appear in a legislative, administrative or other similar proceeding.

15424. A person requesting the appointment of counsel shall make a financial statement under oath in the manner provided in rules adopted by the Judicial Council.

15425. The duties prescribed for the State Public Defender by this chapter are not exclusive and he may perform any acts consistent with them in carrying out the functions of the office.

SEC. 2. Section 27706 of the Government Code is amended to read:

27706. The public defender shall perform the following duties:

(a) Upon request of the defendant or upon order of the court, he shall defend, without expense to the defendant, except as provided by Section 987.8 of the Penal Code, any person who is not financially able to employ counsel and who is charged with the commission of any contempt or offense triable in the superior, municipal or justice courts at all stages of the proceedings, including the preliminary examination. The public defender shall, upon request, give counsel and advice to such person about any charge against him upon which the public defender is conducting the defense, and shall prosecute all appeals to a higher court or courts of any person who has been convicted, where, in his opinion, the appeal will or might reasonably be expected to result in the reversal or modification of the judgment of conviction.

(b) Upon request, he shall prosecute actions for the collection of wages and other demands of any person who is not financially able to employ counsel, where the sum involved does not exceed one hundred dollars ($100), and where, in the judgment of the public defender, the claim urged is valid and enforceable in the courts.

(c) Upon request, he shall defend any person who is not financially able to employ counsel in any civil litigation in which, in

the judgment of the public defender, the person is being persecuted or unjustly harassed.

(d) Upon request, or upon order of the court, he shall represent any person who is not financially able to employ counsel in proceedings under Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code.

(e) Upon order of the court, he shall represent any person who is entitled to be represented by counsel but is not financially able to employ counsel in proceedings under Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code.

(f) Upon order of the court he shall represent any person who is required to have counsel pursuant to Section 686.1 of the Penal Code.

(g) Upon the order of the court or upon the request of the person involved, he may represent any person who is not financially able to employ counsel in a proceeding of any nature relating to the nature or conditions of detention, of other restrictions prior to adjudication, of treatment, or of punishment resulting from criminal or juvenile proceedings.

2.5. Section 27707.1 of the Government Code is amended to read:

27707.1. The boards of supervisors of two or more counties may authorize their respective public defenders to enter into reciprocal or mutual assistance agreements whereby a deputy public defender of one county may be assigned on a temporary basis to perform public defender duties in the county to which he has been assigned in actions or proceedings in which the public defender of the county to which the deputy has been assigned has properly refused to represent a party because of a conflict of interest.

Whenever a deputy public defender is assigned to perform public defender duties in another county pursuant to such an agreement, the county to which he is assigned shall reimburse the county in which he is regularly employed in an amount equal to the portion of his regular salary for the time he performs public defender duties in the county to which he has been assigned. The deputy public defender shall also receive from the county to which he has been assigned the amount of actual and necessary traveling and other expenses incurred by him in traveling between his regular place of employment and the place of employment in the county to which he has been assigned.

A board of supervisors may also authorize the reciprocal or mutual assistance agreements provided for in this section with the State Public Defender.

SEC. 3. Section 1239 of the Penal Code is amended to read:

1239. (a) Where an appeal lies on behalf of the defendant or the people, it may be taken by the defendant or his counsel, or by counsel for the people, in the manner provided in rules adopted by the Judicial Council.

(b) When upon any plea a judgment of death is rendered, an appeal is automatically taken by the defendant without any action by

him or his counsel.

SEC. 4. Section 1240 is added to the Penal Code, to read:

1240. (a) When in a proceeding falling within the provisions of Section 15421 of the Government Code a person is not represented by a public defender acting pursuant to Section 27706 of the Government Code or other counsel and he is unable to afford the services of counsel, the court shall appoint the State Public Defender to represent the person except as follows:

(1) The court shall appoint counsel other than the State Public Defender when the State Public Defender has refused to represent the person because of conflict of interest or other reason.

(2) The court may, in its discretion, appoint either the State Public Defender or the attorney who represented the person at his trial when the person requests the latter to represent him on appeal and the attorney consents to the appointment. In unusual cases, where good cause exists, the court may appoint any other attorney.

(3) A court may appoint a county public defender, private attorney, or nonprofit corporation with which the State Public Defender has contracted to furnish defense services pursuant to Government Code Section 15402.

(4) When a judgment of death has been rendered the Supreme Court may, in its discretion, appoint counsel other than the State Public Defender or the attorney who represented the person at trial.

(b) If counsel other than the State Public Defender is appointed pursuant to this section, he may exercise the same authority as the State Public Defender pursuant to Chapter 2 (commencing with Section 15420) of Part 7 of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 1241 of the Penal Code is amended to read:

1241. In any case in which counsel other than a public defender has been appointed by the Supreme Court or by a court of appeal to represent a party to any appeal or proceeding, such counsel shall receive a reasonable sum for compensation and necessary expenses, the amount of which shall be determined by the court and paid from any funds appropriated to the Judicial Council for that purpose. Claim for the payment of such compensation and expenses shall be made on a form prescribed by the Judicial Council and presented by counsel to the clerk of the appointing court. After the court has made its order fixing the amount to be paid the clerk shall transmit a copy of the order to the State Controller who shall draw his warrant in payment thereof and transmit it to the payee.

SEC. 6. Sections 15400, 15401, 15402 and 15403 of the Government Code, as added by Section 1 of this act, shall become operative on January 1, 1976, and the remainder of this act shall become operative on July 1, 1976.

CHAPTER 1126

An act to add Sections 225, 225.1, and 225.2 to the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 225 is added to the Revenue and Taxation Code, to read:

225. Personal property manufactured or produced, (1) outside this state and brought into this state for transshipment out of the United States, or (2) outside of the United States and brought into this state for transshipment out of this state, for sale in the ordinary course of trade or business shall be exempt from taxation. The exemption under this section shall not apply to personal property in manufacturing process or production. Such process or production shall not include the breaking in bulk, labeling, packaging, relabeling, or repackaging of such property.

SEC. 2. Section 225.1 is added to the Revenue and Taxation Code, to read:

225 1. A person claiming an exemption under Section 225 may either claim this exemption by (1) a percentage method of determining property held for transshipment on hand at a particular location by allocating a portion of the total inventory, using the percentage determined by dividing the total out-of-state shipments by the taxpayer from that location during the preceding year by the total of such shipments from that location during such year, or (2) an actual method as evidenced by contracts of sale on the tax lien date, and a full, true and correct inventory of all property held for transshipment together with the date of receipt of the same, the date of withdrawal of the same, the point of origin thereof, and the point of ultimate destination thereof.

SEC. 3. Section 225.2 is added to the Revenue and Taxation Code, to read:

225.2. Any property exempted under Section 225 which is reconsigned to a final destination in this state shall be subject to escape assessment procedures.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2229 of the Revenue and Taxation Code, for the reimbursement of any local agency for any revenue lost by it as a result of the exemption of property from taxation by this act because the net loss of revenues to any local agency is not significant.

CHAPTER 1127

An act to amend Sections 6491, 6492, 6493, 6495, 6497, and 6498 of the Education Code, relating to school districts, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 6491 of the Education Code is amended to read:

6491. From the funds appropriated therefor by the Legislature to the Department of Education for the purposes of this article, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall administer this article and make apportionments to school districts to meet the total approved expense of the school districts incurred in establishing demonstration programs in the intensive instruction in reading and mathematics for pupils in grades 7, 8, or 9.

No project expenditures of a district in excess of the average expenditure of the district for the prior fiscal year per unit of average daily attendance, excluding categorical funds, for any single project shall exceed 50 percent of the average expenditure of the district for the prior fiscal year per unit of average daily attendance, excluding categorical funds. The State Board of Education, in approving projects, shall ensure that selected projects differ in project cost per pupil by at least three hundred dollars ($300).

SEC. 2. Section 6492 of the Education Code is amended to read:

6492. The governing board of any district which maintains grades 7, 8, or 9 on account of any school or schools located in any area designated by the Superintendent of Public Instruction pursuant to the provisions of Education Code Section 6482, may make application to establish and operate a program under this article. The application shall be in the form and shall contain such data and information as the superintendent shall specify, including how demonstration programs shall include dissemination and replication activities.

SEC. 3. Section 6493 of the Education Code is amended to read:

6493. The governing board of a school district, in its application, may request waiver of the provisions of any section or sections of this code for any compensatory education program if such waiver is necessary to establish and operate a program for low-income children. The need for a waiver shall be explained and justified in the application. The Superintendent of Public Instruction, with the approval of the State Board of Education, may grant, in whole, or in part, any such request.

SEC. 4. Section 6495 of the Education Code is amended to read:

6495. The State Board of Education shall adopt regulations setting forth the standards and criteria to be used in the evaluation of applications submitted by school districts. The standards and criteria adopted by the State Board of Education, among other items, shall include a statement of specific goals to be sought in the program both in terms of pupil achievement and for the purpose of establishing a model program, and the requirements for evaluation of the program.

Projects shall be approved only if it can be shown that, if successful, the cost effectiveness of the project (a) will be adaptable within the budgets of other similar school districts throughout the state, or (b) can be replicated using other existing compensatory education funds in grades 7, 8, and 9, or (c) can be replicated if additional compensatory education funds become available for use in grades 7, 8, or 9.

All project approvals shall show if the project was approved under provision (a), (b), or (c), above.

Projects shall be continually reviewed regarding their effectiveness in improving the achievement levels of pupils in reading and mathematics. Projects which are least cost effective shall be terminated and shall be replaced with ones of proven effectiveness or by new projects which hold promise of increased effectiveness.

SEC. 5. Section 6497 of the Education Code is amended to read:

6497. No later than January 30 of each year, the Superintendent of Public Instruction, with approval of the State Board of Education, shall submit a report to the Legislature on the implementation and evaluation of demonstration programs under this article, including the achievement of pupils, dissemination and replication activities, the number of school districts that have replicated the demonstration projects and the funding sources used for such replication, and an analysis of the costs of each demonstration project detailed in terms of the costs of design, implementation and continuing operational expenses, including the degree of cost effectiveness of each project. The report shall also include recommendations concerning improvement, retention, extension or other aspects of the program. In addition, the report shall further include a description of how the Department of Education will use the demonstration programs as models for replication if other compensatory education funds are available for use in grades 7, 8, or 9.

The report shall also set forth the number of waivers authorized by the Superintendent of Public Instruction under Section 6493, the number of pupils who participated in programs for which waivers were granted, and whether or not the waivers had a positive effect upon the reading or mathematics skill of participating pupils.

Not later than November 1 of each year, the Superintendent of Public Instruction shall submit to the Department of Finance and the

Legislative Analyst a synopsis of available data produced for the evaluation report.

SEC. 6. Section 6498 of the Education Code is amended to read:

6498. This article shall have no force or effect after September 1, 1978.

SEC. 7. There is hereby appropriated from the General Fund to the Department of Education one million forty-five thousand dollars ($1,045,000) in augmentation of the amounts provided in Item 309(a) of the Budget Act of 1975, to carry out the purposes of this act.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Current statutes provide that authority to establish and operate demonstration programs in intensive instruction in reading and mathematics terminates after the 91st day following adjournment of the 1975 Regular Session. In order to ensure that this act will take effect prior to the expiration of the effective period of the statutes affected thereby, and to avoid any technical questions which might arise in connection with determining precisely when such date of expiration is to be deemed to have occurred in view of the fact that there are now two-year legislative sessions, it is essential that this act take effect immediately.

CHAPTER 1128

An act to amend Sections 5600, 5604, 5650, 5651, 5653, 5654, and 5719 of, to add Division 11 (commencing with Section 19900) to, and to repeal Section 4027 of, Chapter 2.5 (commencing with Section 5675) of Part 2 of Division 5 of, Chapter 8 (commencing with Section 19800) and Chapter 9 (commencing with Section 19850), of Part 2 of Division 10 of, and Division 11 (commencing with Section 19900) of, the Welfare and Institutions Code, relating to alcoholism.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 4027 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 5600 of the Welfare and Institutions Code is amended to read:

5600. This part shall be known and may be cited as the Short-Doyle Act. This part is intended to organize and finance community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. It is furthermore intended to

better utilize existing resources at both the state and local levels in order to improve the effectiveness of necessary mental health services; to integrate state-operated and community mental health programs into a unified mental health system; to ensure that all mental health professions be appropriately represented and utilized in such mental health programs; to provide a means for participation by local governments in the determination of the need for and the allocation of mental health resources; to establish a uniform ratio of local and state government responsibility for financing mental health services; and to provide a means of allocating state mental health funds according to community needs. It is furthermore intended to provide a means of reimbursing local governments for certain services to the mentally retarded which counties may elect to provide.

SEC. 3. Section 5604 of the Welfare and Institutions Code is amended to read:

5604. Each community mental health service shall have an advisory board of 14 members appointed by the governing body. Three members of the advisory board shall be physicians and surgeons engaged in the private practice of medicine, one of whom, when available, shall be a specialist in psychiatry. One member shall be the chairman of the local governing body, and five members shall be persons representative of the public interest in mental health and mental retardation. The advisory board shall also contain a psychologist, a social worker, a nurse, a psychiatric technician, and a hospital administrator, preferably with psychiatric hospital experience. The term of each member of the board shall be for three years; provided, however, that of the members first appointed, five shall be appointed for one year, four for a term of two years, and four for a term of three years. If, however, prior to the expiration of such term a member ceases to retain the status which qualified him for appointment on the board, his membership on the board shall terminate and there shall be a vacancy on the board.

If two local agencies jointly establish a community health service under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the advisory board for such community mental health service shall consist of an additional two members, one of whom shall be the chairman of the second governing body, such that the chairmen of both local agencies are members, and the second of whom shall be an additional person representative of the public interest in mental health and mental retardation.

No member of the advisory board shall be a full-time or part-time county employee of the county mental health service, an employee of the State Department of Health, an employee of the Department of Benefit Payments, or an employee of a Short-Doyle contract facility.

The chairman of a governing body may designate a member of that body to serve in his stead as a member of the advisory board.

If it is not possible to secure membership as specified from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health and mental retardation who are not full-time or part-time employees of the county mental health service, the State Department of Health, the Department of Benefit Payments, or on the staff of a Short-Doyle contract facility.

SEC. 3.5. Section 5604 of the Welfare and Institutions Code is amended to read:

5604. Each community mental health service shall have an advisory board of 18 members appointed by the governing body. Three members of the advisory board shall be physicians and surgeons engaged in the private practice of medicine, one of whom, when available, shall be a specialist in psychiatry. One member shall be the chairman of the local governing body, nine members shall be persons representative of the public interest in mental health and mental retardation, not less than six of whom shall be persons who have personal experience or knowledge in the field of mental health or mental retardation or parents of persons who have or are receiving services in the areas of mental health or mental retardation. The advisory board shall also contain a psychologist, a social worker, a nurse, a psychiatric technician, and a hospital administrator, preferably with psychiatric hospital experience. The term of each member of the board shall be for three years; provided, however, that of the members first appointed, five shall be appointed for one year, four for a term of two years, and four for a term of three years; and further provided that of the six members first appointed as a result of the amendment to this section by the 1975–76 Regular Session of the Legislature, two shall be appointed for one year, two for a term of two years, and two for a term of three years. If, however, prior to the expiration of such term a member ceases to retain the status which qualified him for appointment on the board, his membership on the board shall terminate and there shall be a vacancy on the board.

If two local agencies jointly establish a community health service under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the advisory board for such community mental health service shall consist of an additional two members, one of whom shall be the chairman of the second governing body, such that the chairmen of both local agencies are members, and the second of whom shall be an additional person representative of the public interest in mental health and mental retardation.

No member of the advisory board shall be a full-time or part-time county employee of the county mental health service, an employee of the State Department of Health, an employee of the Department of Benefit Payments, or an employee of a Short-Doyle contract facility.

The chairman of a governing body may designate a member of

that body to serve in his stead as a member of the advisory board.

If it is not possible to secure membership as specified from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health and mental retardation who are not full-time or part-time employees of the county mental health service, the State Department of Health, the Department of Benefit Payments, or on the staff of a Short-Doyle contract facility.

SEC. 4. Section 5650 of the Welfare and Institutions Code is amended to read:

5650. On or before March 15 of each year, the board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Health in the form and according to the procedures specified by the director, an annual county Short-Doyle plan for the next fiscal year for mental health services in the county or counties. The county plan submitted shall be compatible with the budget for the next fiscal year submitted by the Governor to the Legislature. The purpose of a county plan shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this chapter in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

To achieve this purpose, a county Short-Doyle plan shall provide for the most appropriate and economical use of all existing public and private agencies, licensed private institutions, and personnel. A county Short-Doyle plan shall include the fullest possible and most appropriate participation by existing city Short-Doyle programs, local public and private general and psychiatric hospitals, state hospitals, city, county, and state health and welfare agencies, public guardians, mental health counselors, probation departments, physicians, psychologists, social workers, public health nurses, psychiatric technicians, and all such other public and private agencies and personnel as are required to, or may agree to, participate in the county Short-Doyle plan.

SEC. 5. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The county Short-Doyle plan shall include the following:

(a) A description of the persons to be served. This shall include the number of persons to be served in each of the following target groups: general mental disorder, children and adolescents, drug abuse, and mentally retarded. Each target group shall be further categorized by age groups.

(b) A description of all the comprehensive direct service programs to be provided to each target group. This shall include the state, county, and private resources providing the services, the cost of each comprehensive program, and the cost of each major program element within each comprehensive program.

(c) A description of the indirect and supportive services necessary for the operation of the county's mental health program. This shall

include consultation and education services available to community agencies and professional personnel and information services to the general public, training research and evaluation. The plan shall also include the cost of each of these services. The drug abuse component of the plan shall also include but not be limited to, elements relating to prevention, detoxification, treatment and referral services, rehabilitation, and coordination of programs and other community services.

(d) A five-year projection of county needs for each target group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each target group, and the estimated cost of developing and acquiring these resources.

(e) A statement indicating which elements of the five-year projection the county expects to accomplish under its plan.

(f) An estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the succeeding fiscal year This requirement shall not apply to patients for whom county expenditures for services are not reimbursable by the state under this part.

The State Department of Health shall provide the counties, to the extent possible, the information upon which to base this estimate.

No mentally disordered person shall be admitted to a state hospital prior to screening and referral by an agency designated by the county Short-Doyle plan to provide this service.

(g) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(h) A detailed description of the methodology to be used by the county for evaluating the results of the programs and services being provided for each target group. This methodology shall permit program evaluation including the relative cost and effectiveness of alternative forms and patterns of services.

(i) A description of the procedures used to insure citizen and professional involvement in the county's mental health planning process at all stages of its development. Such procedures shall be reviewed and approved by the local mental health advisory board.

SEC. 5.5. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The county Short-Doyle plan shall include the following:

(a) A description of the persons to be served. This shall include the number of persons to be served in each of the following target groups: general mental disorder, children and adolescents, drug abuse, and mentally retarded. Each target group shall be further categorized by age groups

(b) A description of all the comprehensive direct service programs to be provided to each target group. This shall include the state, county, and private resources providing the services, the cost of each comprehensive program, and the cost of each major program

element within each comprehensive program.

(c) A description of the indirect and supportive services necessary for the operation of the county's mental health program. This shall include consultation and education services available to community agencies and professional personnel and information services to the general public, training research and evaluation. The plan shall also include the cost of each of these services. The drug abuse component of the plan shall also include but not be limited to, elements relating to prevention, detoxification, treatment and referral services, rehabilitation, and coordination of programs and other community services.

(d) A three-year projection of county needs for each target group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each target group, and the estimated cost of developing and acquiring these resources.

(e) A statement indicating which elements of the three-year projection the county expects to accomplish under its plan.

(f) An estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the succeeding fiscal year. This requirement shall not apply to patients for whom county expenditures for services are not reimbursable by the state under this part.

The State Department of Health shall provide the counties, to the extent possible, the information upon which to base this estimate.

No mentally disordered person shall be admitted to a state hospital prior to screening and referral by an agency designated by the county Short-Doyle plan to provide this service.

(g) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(h) A detailed description of the methodology to be used by the county for evaluating the results of the programs and services being provided for each target group. This methodology shall permit program evaluation including the relative cost and effectiveness of alternative forms and patterns of services.

(i) A description of the procedures used to insure citizen and professional involvement in the county's mental health planning process at all stages of its development. Such procedures shall be reviewed and approved by the local mental health advisory board.

SEC. 6. Section 5653 of the Welfare and Institutions Code is amended to read:

5653. In developing the county Short-Doyle plan, optimum use shall be made of appropriate local public and private organizations, community professional personnel, and state agencies. Optimum use shall also be made of federal, state, county, and private funds which may be available for mental health planning.

In order that maximum utilization be made of federal and other funds made available to the State Department of Rehabilitation, the

State Department of Rehabilitation may serve as a contractual provider under the provisions of a county Short-Doyle plan of vocational rehabilitation services for the mentally disordered and mentally retarded.

SEC. 7 Section 5654 of the Welfare and Institutions Code is amended to read:

5654. The county may elect to provide evaluation and treatment services for persons who are dangerous to themselves or others as a result of the use of narcotics or restricted dangerous drugs, who are criminal defendants receiving services pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of Part 1 of this division, or who are voluntary patients. The county Short-Doyle plan shall designate the specific facility or facilities for evaluation and treatment of such persons who are criminal defendants, or who are voluntary patients, and shall specify the maximum number of patients that can be served at one time by each such facility.

SEC. 8. Chapter 2.5 (commencing with Section 5675) of Part 2 of Division 5 of the Welfare and Institutions Code is repealed.

SEC. 9. Section 5719 of the Welfare and Institutions Code is amended to read:

5719. To continue county expenditures for legal proceedings involving mentally disordered persons, the following costs incurred in carrying out Part 1 (commencing with Section 5000) of this division shall be non-state-reimbursable charges:

(a) The costs involved in bringing a person in for 72-hour treatment and evaluation;

(b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary;

(c) The costs of court proceedings in cases of appeal from 14-day intensive treatment;

(d) The cost of legal proceedings in conservatorship other than the costs of conservatorship investigation as defined by regulations of the State Department of Health;

(e) The court costs in postcertification proceedings;

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to pay.

SEC. 10. Chapter 8 (commencing with Section 19800) of Part 2 of Division 10 of the Welfare and Institutions Code is repealed.

SEC. 11. Chapter 9 (commencing with Section 19850) of Part 2 of Division 10 of the Welfare and Institutions Code is repealed.

SEC. 12. Division 11 (commencing with Section 19900) of the Welfare and Institutions Code is repealed.

SEC. 13. Division 11 (commencing with Section 19900) is added to the Welfare and Institutions Code, to read:

DIVISION 11. OFFICE OF ALCOHOLISM

CHAPTER 1. GENERAL PROVISIONS

Article 1. Office of Alcoholism

19900. The Legislature hereby finds and declares that it is essential to the health and welfare of the people of this state that action be taken by state government to effectively and economically utilize federal and state funds for alcoholism research and prevention and for the treatment and rehabilitation of alcoholics and their families. To achieve this, it is necessary that:

(a) Existing fragmented, uncoordinated, and duplicative alcoholism programs be merged into a comprehensive and integrated system for the prevention of alcoholism and for the treatment and rehabilitation of alcoholics and their families.

(b) Responsibility and authority for encouragement of the planning, establishing, and conducting of county programs in alcoholism prevention, treatment, and rehabilitation be concentrated in one agency. The office shall oversee the administration of such county programs, and shall administer statewide alcoholism programs authorized under this division. The functions and operations of the office shall be subject to periodic review by the Legislature.

19901. The Legislature declares that alcoholism is:

(a) The most serious drug problem in California, and

(b) The cause of a great toll of death, permanent disability and property damage on our highways; and

(c) Often the cause of job loss, absenteeism, reduced productivity and industrial accidents; and

(d) A drain on law enforcement, the courts and prison system; and

(e) An important cause of marital dissolution and other domestic problems adversely affecting countless Californians, including many children; and

(f) Harmful to health when consumed in excessive amounts with resultant effects on the liver, brain and muscles.

19902. As used in this chapter:

(a) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly.

(b) "Office" means the Office of Alcoholism established pursuant to Section 19903.

(c) "Director" means the Director of the Office of Alcoholism appointed pursuant to Section 19903.

(d) "Alcoholic" means a person who habitually lacks self-control as to the use of alcoholic beverages, or uses alcoholic beverages to the extent that his mental or physical health is substantially impaired or endangered or his social or economic function is substantially disrupted.

(e) "Agency" means the Health and Welfare Agency.

(f) "Secretary" means the Secretary of the Health and Welfare Agency.

(g) "County program budget" means the county alcoholism program budget adopted by the governing body pursuant to Article 3 (commencing with Section 19940).

(h) "State advisory board" means the state alcoholism advisory board established pursuant to Section 19905.

(i) "Advisory board" means the county alcoholism advisory board established pursuant to Section 19925.

(j) "Alcoholism administrator" means the county alcoholism administrator designated pursuant to Section 19923.

(k) "State alcoholism program" includes all statewide alcoholism programs administered by the office, and all county alcoholism programs funded under this division.

19903. There is hereby created, in the Health and Welfare Agency, an Office of Alcoholism under the control of a director appointed by and holding office at the pleasure of the Governor, with the consent of the Senate. The director shall be a qualified professional in the field of alcoholism with training and experience related to the social or medical problems of alcoholics, or the organization and administration of alcoholism prevention, treatment, and rehabilitation programs.

19903.5. The office shall:

(a) Oversee the administration of state-funded programs relating to alcoholism.

(b) Develop and implement a comprehensive, uniform plan for alcoholism prevention, treatment and rehabilitation programs throughout the state and advise the secretary regarding inclusion of the plan in the state's comprehensive health plan.

(c) In the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget for the state alcoholism program which shall include expenditures proposed to be made under this division, and may include expenditures proposed to be made by any other state agency relating to alcoholism.

(d) Be the single state agency to review all state plans which may, in part, relate to alcoholism, to be submitted for funding under federal legislation and advise the secretary on provisions to be included relating to alcoholics and their families; provided that nothing in this section shall be construed to prevent local government or private agencies from receiving federal funds directly in those instances where such funds are directly payable to local government or such agencies.

(e) Encourage and assist county alcoholism administrators in the development of local programs for the prevention of alcoholism and the treatment and rehabilitation of alcoholics and their families in cooperation with public and private agencies, and individuals, and provide technical assistance and consultation services for these purposes.

(f) Review and approve county alcoholism program budgets submitted for state and federal funds administered by the office, and perform liaison functions to assist counties in development and implementation of such program budgets.

(g) Cooperate with other state agencies in establishing and conducting prevention, treatment, and rehabilitation programs for alcoholics and their families.

(h) Organize, sponsor, and encourage training programs for persons engaged in the prevention of alcoholism and the treatment and rehabilitation of alcoholics and their families;

(i) Sponsor and encourage research into the primary biomedical and social causes of alcoholism and the effectiveness of various types of alcoholism prevention treatment, and rehabilitation programs, and serve as a clearinghouse for information relating to alcoholism;

(j) Utilize the support, assistance, and dedication of interested persons in the community, particularly recovered alcoholics, to encourage alcoholics voluntarily to undergo treatment and rehabilitation;

(k) Require uniform methods for keeping statistical and management information by public and private agencies, and individuals providing prevention, treatment, and rehabilitation services to alcoholics and their families in order to determine the effectiveness of such services pursuant to Section 19906, provided that, where appropriate, such methods shall be coordinated with methods utilized by other state health-related agencies;

(*l*) Encourage general hospitals and other appropriate health facilities to admit alcoholics without discrimination and to provide them with adequate and appropriate treatment;

(m) Encourage all health and disability insurance programs to include alcoholism as a covered illness;

(n) Submit an annual report to the Legislature on the state alcoholism program. The report shall include, but not be limited to, progress on implementation of the program, its effectiveness, the amount and sources of funds expended under the program, and the extent to which the misuse of alcohol and the gravity of alcoholism in California have increased or lessened.

(o) Encourage counties to coordinate alcoholism services, where appropriate, within a comprehensive county health services system.

(p) Administer prevention programs including the use of educational courses, driving-while-intoxicated programs, informational materials, and mass media advertising.

It is the intent of the Legislature that commencing with the 1976–77 fiscal year, the Office of Alcoholism shall ensure that alcoholism programs under its jurisdiction include major efforts in prevention and in helping young persons who abuse alcohol.

19903.7. The office shall have the power to act as follows:

(a) To adopt rules and regulations in accordance with the provisions of the Administrative Procedure Act necessary for proper execution of the powers and duties granted to and imposed upon the

office by this division, including, but not limited to, rules and regulations to establish standards for alcoholism prevention, treatment and rehabilitation services, the public and private facilities which provide such services, and the qualifications of the personnel of such facilities; provided, that such rules and regulations shall be adopted only after prior consultation with the state advisory board and county alcoholism administrators; provided further, that if two-thirds of the members of the state advisory board or two-thirds of the designated county alcoholism administrators at a public meeting reject such rules or regulations, the office shall refer the matter for a decision to a committee composed of the chairman of the state advisory board, a designee of the alcoholism administrators, the director, the secretary, and one designee of the secretary. Such decision shall be made by a majority vote of such committee at a public meeting.

(b) To employ such administrative, technical, and other personnel as may be necessary for the performance of its powers and duties.

(c) To make contracts or grants necessary or incidental to the performance of its duties and the execution of its powers, including contracts with public and private agencies, and individuals to pay them in advance or reimburse them for services provided to alcoholics and their families. The office may require other state agencies to contract with it for services to carry out provisions of this division;

(d) To solicit and accept for use any gift of money or property made by will or otherwise, and any grant of money, services or property from the federal government, the state, or any political subdivision thereof or any private source, and do all things necessary to cooperate with the federal government or any of its agencies in making an application for any grant;

(e) To authorize reimbursement for that portion of health insurance premiums attributable to alcoholism treatment and rehabilitation made pursuant to approved programs undertaken by any public agency, business entity, labor organization, or other organization; and

(f) To do or perform any other acts which may be necessary, desirable or proper to carry out the purposes of this division.

19904. There is hereby established an Interdepartmental Coordinating Committee composed of the directors, or their designated representatives, of the Departments of Health, Rehabilitation, Corrections, Youth Authority, Employment Development, Education, Motor Vehicles, Office of Traffic Safety, representatives of the Legislative Analyst and Department of Finance, such other appropriate agencies as the Governor shall designate, and the office. The committee shall meet at least twice annually at the call of the director, who shall be its chairman. The committee shall provide for the coordination of, and exchange of information on, all programs relating to alcoholism, and shall act as

a permanent liaison among the departments and agencies engaged in activities affecting alcoholics and their families. The committee shall assist the director in formulating a comprehensive state plan for prevention of alcoholism and for treatment and rehabilitation of alcoholics and their families.

19904.5. In exercising its coordinating functions, the committee shall assure that:

(a) The appropriate state agencies provide all necessary medical, social, treatment, rehabilitation, and educational services to alcoholics and their families without unnecessary duplication of services;

(b) All state agencies adopt approaches to the prevention of alcoholism and the treatment and rehabilitation of alcoholics and their families consistent with the policy of this division.

19905. (a) There is a State Alcoholism Advisory Board which shall consist of 15 members, five members shall be appointed by the Governor, five members by the Senate Rules Committee, and five members by the Speaker of the Assembly. The board shall assist and advise the director in carrying out the provisions of this division.

The members shall be appointed for terms that commence on January 1, 1976. Of the members first appointed by the Governor, the Senate Rules Committee, and the Speaker, two out of each five appointments shall hold office for three years, two out of each five shall hold office for two years, and one out of each five shall hold office for one year. Of the five members each appointed by the Governor, the Senate Rules Committee, and the Speaker, at least one out of five appointees shall be a person who has received treatment or rehabilitation services for his alcoholism problem. After these initial terms, each member shall be appointed for a term of three years. The members shall annually select the chairman of the board. Members shall have professional, research, or personal interest in the field of alcoholism. The membership shall also include representatives from various economic, social, and occupational groups, and shall allow for geographic distribution throughout the state The board shall meet at least once every three months and report on its activities and make recommendations to the director and the secretary at least once a year. The director shall respond in writing to the board regarding each recommendation. All meetings of the board shall be open to the public.

(b) The board shall advise the director on policies, goals, and operations of the office and on any other related matters the director refers to it or which are raised by the board and shall encourage public understanding of the problems of alcoholism and support throughout the state for development and implementation of effective alcoholism programs.

(c) Members of the board shall serve without compensation, but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their official duties.

19906. (a) A primary responsibility of the office shall be to

conduct evaluation studies to enable the office to determine the relative cost-effectiveness of programs and services included in the county program budgets and statewide alcoholism programs. The office shall conduct these evaluations in such a manner as to enable the office to compare the relative cost-effectiveness of the same or similar programs or services provided in different counties. In conducting such studies, the office may contract for research and evaluation services with state and local governmental agencies and any private agencies.

(b) Such evaluation studies shall be designed to provide the office, the Legislature, the counties, and the public, with at least the following information and evaluation:

(i) A detailed description of the persons or community served;

(ii) A detailed description and analysis of the kinds of programs or services provided and their cost;

(iii) A detailed description and analysis of the results of the programs or services, at six-month intervals, for at least 18 months after a person has entered a program and has been provided with services for his alcoholism problem;

(iv) An evaluation of whether such programs or services should continue to be funded

19906.5. The Legislative Analyst shall report to the Legislature no later than January 1, 1977, regarding the effectiveness of administration of the state alcoholism program by the Office of Alcoholism.

19907. There is hereby created in the General Fund in the State Treasury the Alcoholism Research, Prevention, Treatment, and Rehabilitation Account. Funds in the account may be expended by the Office of Alcoholism pursuant to the provisions of this division only when appropriated by the Legislature to the office through the Budget Act.

The first priority for use of the funds deposited in the account shall be for alcoholism prevention, treatment, and rehabilitation programs and for research relating to the causes of alcoholism. During each fiscal year for which funds in the account have been appropriated to the office through the Budget Act, any funds not allocated for use by the office may be appropriated by the Legislature for any other general purposes provided that the Legislature finds and so declares in the Budget Act that such unallocated funds are not needed for alcoholism prevention, treatment or rehabilitation programs or research relating to the causes of alcoholism during such fiscal year.

Any funds not appropriated from the account during any fiscal year shall remain in the account until appropriated by the Legislature pursuant to this section.

The Legislature may appropriate funds from the account commencing with the 1976–77 Budget Act.

Article 2. County Operations and Administration

19920. (a) The governing body of each county may establish a community alcoholism prevention, treatment and rehabilitation program for the county and apply for state funds under this division.

The provisions of this division shall be applicable only to counties electing to apply for state funds or federal funds administered by the office under this division.

It is the intent of the Legislature to grant responsibility to the county to administer and manage all county alcoholism programs funded under this division, and that the county be accountable to the state for their effective implementation. It is also the intent of the Legislature to encourage the county to establish its own priorities for alcoholism programs under the provisions of this division.

(b) Two or more counties may jointly establish programs pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

19921. All state funds appropriated for purposes of the county program shall be provided under the county program budget adopted pursuant to Article 3 (commencing with Section 19940).

19922. Funds allocated to the county pursuant to this division shall be used exclusively for the development, support and expansion of alcoholism programs and such funds shall be separately identified and accounted for.

19923. (a) The governing body shall designate a health-related county agency or department which shall administer the county alcoholism program. The head of the designated health-related agency or department shall appoint a full-time alcoholism program administrator who shall report and be responsible to the head of the agency or department through administrative channels designated by the governing body. It is the intent of the Legislature that the county alcoholism program be administered and treated in a manner similar to other major health programs in the county.

(b) The alcoholism administrator shall, in accordance with standards established by the director, be a qualified professional who has training and experience in handling social or medical problems of alcoholics, or the organization and administration of alcoholism prevention, treatment, and rehabilitation programs.

(c) The requirement in subdivision (a) that the alcoholism administrator be full-time shall apply only to counties whose population exceeds 200,000; provided, that the director may waive the requirements of this section upon request of the governing body if he finds that such requirements would cause undue administrative hardship on the county.

In counties whose population does not exceed 200,000, the governing body shall designate an alcoholism administrator who may be a person who administrates other health-related programs in addition to the alcoholism program.

19924. The alcoholism administrator, acting through

administrative channels designated pursuant to Section 19923, shall:

(a) Prepare the county program budget as specified in Article 3 (commencing with Section 19940).

(b) Exercise general supervision over alcoholism services provided under the county program budget.

(c) Recommend to the governing body the provision of services, establishment of facilities, contracting for services or facilities, and other matters necessary or desirable in accomplishing the purposes of this division

(d) Provide the advisory board with information regarding alcoholism programs in the county and consult with it regarding the development and implementation of the county program budget.

(e) Submit an annual report to the governing board relating to all activities of the county program, including a financial accounting of expenditures and a forecast of anticipated needs for the ensuing year.

(f) Administer all alcoholism program funds allocated to the county under this division.

(g) Be responsible for the ongoing coordination of all public and private alcoholism programs and services in the county with the alcoholism program established pursuant to this article.

(h) Carry on such studies as may be appropriate for the discharge of his duties.

19925. (a) Each county shall have an alcoholism advisory board composed of 15 members appointed by the governing body and shall include at least three persons who have received treatment or rehabilitation services for their alcoholism problems. Members shall have a professional, research, or personal interest in the field of alcoholism. The membership shall include representatives from various economic, social and occupational groups.

The advisory board shall be independent from any other advisory board established pursuant to any provision of state law; provided, that the advisory board shall coordinate its efforts, where appropriate, with other boards and advisory agencies concerned with alcoholism.

This subdivision shall apply only to counties whose population exceeds 200,000.

(b) In counties whose population does not exceed 200,000, the governing body shall appoint an advisory board which shall be composed of not less than seven nor more than 15 members which is independent, under the jurisdiction of another health-related advisory board or agency established pursuant to any provision of state law, or has the same membership as such other advisory board or agency. It is the intent of the Legislature that such boards shall include representatives from various economic, social, and occupational groups, and persons who have received treatment or rehabilitation services for their alcoholism problems.

19926. Five members of the advisory board shall be appointed to serve until July 1, 1977; five members shall be appointed to serve until July 1, 1978; and five members shall be appointed to serve until

July 1, 1979. After these initial terms, each member shall be appointed for a term of three years. The members shall select the chairman of the advisory board.

19927. No member of the advisory board shall be a full-time or part-time county employee of any county facility which provides alcoholism services, or an employee of a facility which provides alcoholism services under contract with the county, or a recipient of any state funds allocated to the county under this division. In the event that prior to the expiration of his term, a member ceases to retain the status which qualified him for appointment to the advisory board, his membership on the advisory board shall terminate and there shall be a vacancy on the advisory board.

19928. If two or more counties whose combined population exceeds 200,000 jointly establish an alcoholism program, the advisory board for its alcoholism program shall consist of at least 15 members. If the combined population of such counties does not exceed 200,000, subdivision (b) of Section 19925 shall apply to such counties.

19929. The advisory board shall meet at least bimonthly and may meet at such other times as may be deemed necessary by the chairman or alcoholism administrator. The members of the advisory board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties under this chapter; provided, that the members may receive compensation out of county funds other than the required county match. All meetings of the advisory board shall be open to the public.

19930. Advisory boards shall be subject to the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

19931. The advisory board shall:

(a) Review and evaluate the county program budget, and any amendments thereto, and the community's alcoholism prevention, treatment, and rehabilitation needs, services, facilities, and special problems, and may make onsite visits to such facilities and interview persons who have received aid from such facilities.

(b) Advise the county alcoholism administrator on policies, goals, and operations of the county alcoholism program and on any other related matters the alcoholism administrator refers to it or which are raised by the advisory board.

(c) Encourage public understanding of the problems of alcoholism and support throughout the county for development and implementation of effective alcoholism programs.

19932. In the event the alcoholism administrator and advisory board disagree regarding the development of or implementation of any element of the county program budget or any related matter, the advisory board may designate a representative to report or make a presentation before the governing body relating to such disagreement.

The advisory board shall submit minutes of its meetings, comments

regarding the county program budget, and any related matters to the governing body.

19933. Subject to the approval of the director, any county may by contract furnish alcoholism services to any other county.

19934. Unless otherwise expressly provided for or required by the context, the provisions of this division relating to county alcoholism programs, and the appointment of alcoholism advisory boards and administrators shall apply to alcoholism programs operated jointly by two or more counties.

19935. Nothing in this division shall prevent any city or combination of cities from financing and operating an alcoholism program by entering into arrangements with the county to provide and be reimbursed for services provided under the county program budget.

19936. It is the intent of the Legislature that the county maintain a unified planning process for all health programs, provided, that such unified planning shall not delay or interfere with any of the procedures or applications for funding under this division.

19937. The office may require that each county and any public or private provider of alcoholism services or programs which receives any state funds under this division provide such information as may be requested by the office relating to any application for or receipt of federal or other nonstate funds for alcoholism services or programs.

Article 3. The County Alcoholism Program Budget

19940. On or before June 1 of each year, commencing June 1, 1976, the governing body shall adopt a proposed or final county alcoholism program budget and shall submit the budget to the director in the form and according to the procedures specified by the director. The governing body shall submit its final alcoholism program budget no later than October 1 of each year and shall set forth any differences between its proposed and final budget. In the event the governing body does not adopt and submit its proposed or final program budget on or before June 1, the office may reallocate all or part of that county's allocation to other counties which have adopted and submitted their program budgets. The office shall, by regulation, establish deadlines for preparation of the program budget, review by the advisory board, and submission to the governing body. The county alcoholism program budget shall be the budget for the next fiscal year for the alcoholism program in the county. The purpose of the county program budget shall be to provide the basis for reimbursement pursuant to the provisions of this division and to coordinate services as specified in this division in such a manner as to avoid duplication, fragmentation of services, and unnecessary expenditures.

19941. The county program budget shall provide for the development through the utilization of state, local, public, and

private resources, of adequate services and facilities for the prevention of alcoholism and for the treatment and rehabilitation of alcoholics and their families.

19942. The county program budget shall include all of the following.

(a) A description of services to be provided to alcoholics, their families, and the community.

(b) A budget of proposed expenditures.

The office may require counties to provide information relating to projected needs and priorities for any subsequent fiscal year or years.

19943. Such services shall be part of a comprehensive county alcoholism program and shall include, but not be limited to, the following:

(a) Prevention programs including educational courses, driving-while-intoxicated programs, and informational materials.

(b) Early diagnosis and detection programs, including occupational programs, screening and evaluation facilities, health examinations, and presentence investigation services

(c) Emergency and detoxification programs, including inpatient and ambulatory detoxification services.

(d) Treatment and rehabilitation programs, including recovery home programs, counseling, and nonhospital treatment and rehabilitation programs.

(e) Information and referral centers.

(f) Planning, program development and administration; provided, that the director shall establish a limit on the amount of funds allocated to a county which may be expended for such purposes.

(g) Training programs.

(h) Services to alcoholics provided by state hospitals; provided, that no person afflicted with alcoholism may be admitted to a state hospital prior to screening and referral by an agency designated under the county program budget to provide such service.

(i) Actual and necessary expenses incurred by the alcoholism administrator relating to attendance at not more than four meetings each year of the alcoholism administrators designated pursuant to Section 19923.

(j) Vocational rehabilitation services. It is the intent of the Legislature that during the 1976–77 fiscal year, the office shall insure that counties expend for vocational rehabilitation services an amount not less than the amount of funds expended during the 1975–76 fiscal year pursuant to the contract between the Office of Alcohol Program Management and the Department of Rehabilitation. The office shall devise a formula for allocation of such funds directly to counties for use during the 1976–77 fiscal year. Each county which is allocated funds shall contract directly with the Department of Rehabilitation for vocational rehabilitation services Commencing with the 1977–78 fiscal year, each county may contract with the department for such services in any amount.

It is the further intent of the Legislature that the counties shall

make maximum utilization of vocational rehabilitation services pursuant to a contract with the department in order to maximize the receipt of matching federal funds available for such purposes where reasonable and appropriate to do so.

It is the further intent of the Legislature that the office devise procedures for counties to utilize to provide timely notice to the department relating to requests for vocational rehabilitation services for the next fiscal year.

19943.5. The office may waive the requirement that the county program include any services described in Section 19943 if the county demonstrates that no substantial need exists for such service or sufficient funds are not available to adequately provide such service.

19944. When the county program budget is submitted to the director, it shall be accompanied by a document which indicates that the budget has been reviewed by the advisory board.

19945. In development of the county program budget, optimum use shall be made of available assistance from appropriate local public and private agencies, community professional personnel, and state agencies. The office shall, upon request and with available staff, provide consultation services and technical assistance to the alcoholism administrator, the governing body, and the advisory board. Optimum use shall also be made of federal, state, county, and private funds which may be available for alcoholism program budget planning.

19946. Each county shall utilize available private alcoholism programs and services in the county prior to developing new county-operated programs and services when such available private programs and services are as favorable in quality and cost as are those operated by the county. All such available local public or private programs and services, where appropriate, shall be utilized prior to using services provided by state hospitals.

19947. In conducting evaluation, planning, and research activities to develop and implement the county program budget, counties may contract with appropriate public or private agencies.

19948. It is the intent of the Legislature that the services provided pursuant to the county program budget shall be guided by the following standards:

(1) Wherever possible, a patient shall be treated on a voluntary rather than an involuntary basis.

(2) A patient shall be initially assigned or transferred to outpatient or intermediate treatment, unless he is found to require inpatient treatment.

(3) A person shall not be denied treatment solely because he has withdrawn from treatment against medical advice on a prior occasion or because he has relapsed after earlier treatment.

(4) An individualized treatment plan shall be prepared and maintained on a current basis for each patient.

(5) Provision shall be made for a continuum of coordinated

treatment or rehabilitation services, so that a person who leaves a facility or a form of treatment or rehabilitation will have available and utilize other appropriate treatment or rehabilitation.

19949. (a) Each program or service funded through the county program budget shall contain evaluation and followup procedures, as established by rules or regulations adopted by the office, in order to ascertain the effectiveness of each program or service, provided that such procedures, where appropriate, shall be coordinated with procedures utilized by other state health-related agencies.

(b) All personal information and records obtained by the county or the office pursuant to this section and Section 19906 shall be confidential and may be disclosed only in those instances designated in Section 5328 of this code.

(c) Any person may bring an action against an individual who has willingly and knowingly released confidential information or records concerning him in violation of the provisions of this section, for the greater of the following amounts:

(1) Five hundred dollars ($500).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

Any person may, in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

Article 4. Financial Provisions

19960. Alcoholism program expenditures made by counties pursuant to this division shall be paid by the state pursuant to the provisions of this division.

19961. There shall be a single state appropriation from the Budget Act to the office to fund programs for the prevention of alcoholism and treatment and rehabilitation for alcoholics and their families as provided for in this division.

19962. Payments or advances of funds to counties or other state agencies, which are properly chargeable to appropriations to the office may be made by Controller's warrant drawn against state funds appropriated to the office or federal moneys administered by the office.

The office shall have the authority to audit or contract for auditing of any expenditure made pursuant to the state alcoholism program under this division. The office may deny payments or advances of funds to counties if it finds by audit or otherwise that the county program budget, or any part thereof, is not in compliance with the provisions of this division.

19963. Reports of expenditures shall be presented by each county

to the office and by all providers of services to the county at the time and in the form prescribed by the director, provided that the procedures and form for such reports, where appropriate, shall be coordinated with the procedures and forms utilized by other state health-related agencies. Each county shall be responsible for reviewing its contracts with providers of services and the office may audit such contracts. Such reports shall be reviewed by the office and interim adjustments to claims shall be made expeditiously with each county.

19964. Subsequent to review and approval of the county program budget, the director shall determine the amount of state and federal funds available for each county to implement the approved program budget. In making allocations to counties, the office shall take into account such factors as the relative population of the county, its financial need, its need for more effective alcoholism prevention, treatment, and rehabilitation programs, the relative ethnic minority population of the county, the number of arrests for public intoxication and driving while intoxicated, and the number of off-sale licensed outlets which sell alcoholic beverages within the county. Not later than 30 days after introduction of the Budget Bill, the office shall notify each county regarding its preliminary allocation under this division pending enactment of the Budget Act.

19965. On or before October 1 of each year, each county shall submit to the office a revised county program budget for such fiscal year which includes such revisions as are necessary or desirable to make the budget compatible with the Budget Act for that fiscal year. By November 1 of each year, the office shall review and approve each revised county program budget. Such approval shall be subject to the amount appropriated to the office for the purposes of such budget pursuant to the Budget Act for that fiscal year.

19966. The cost of all services specified in the approved county program budget shall be financed on a basis of 90 percent state funds and 10 percent county funds, irrespective of where or by whom the services are provided, except for services to be financed from other public or private sources as provided for in the county program budget; provided, that in the event Senate Bill No. 204 of the 1975–76 Regular Session of the Legislature is chaptered on or before January 1, 1976, the cost of all services specified in the approved county program budget shall be financed on the basis of 100 percent state funds Where the services specified in the approved program budget are provided pursuant to other general health or social programs, only that portion of the service dealing with the prevention of alcoholism, and the treatment and rehabilitation of alcoholics and their families may be financed under this division.

For the purposes of this section, "county program budget" shall mean the total of state funds to be advanced to the county and the required county match.

19967. (a) Upon approval by both parties, the approved county program budget shall be deemed to be a contractual arrangement

between the state and county.

(b) During the course of each fiscal year, a county may reallocate funds initially allocated pursuant to the approved county program budget between state-funded and other approved programs with the approval of the director.

The director may reallocate among county program budgets any savings which occur during the fiscal year in services or any allocations not in compliance with the provisions of this division provided for under the program budgets. Reallocations may be made to counties desiring to provide services supplementary to services specified in approved program budgets.

19968. Nothing in this division shall prevent a county from appropriating additional funds for alcoholism services or programs.

19969. In determining the amounts which may be paid for services, fees paid by persons receiving services or fees paid on behalf of such persons by the federal government, by the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, and by other public or private sources, shall be used for providing additional alcoholism services.

19970. Expenditures subject to payment shall include expenditures for the services specified in Section 19943, salaries of personnel, approved facilities and services provided through contract, operation, maintenance and service costs, depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this division, and such other expenditures as may be approved by the director. It shall not include expenditures for initial capital improvements, the purchase or construction of buildings, except for such equipment items and remodeling expenses as may be provided for in regulations, compensation to members of the state or county alcoholism advisory boards, except for actual and necessary expenses incurred in the performance of official duties, or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

19971. The provisions of subdivision (c) of Section 14000 shall not be construed to prevent providers of alcoholism services pursuant to this division from also being providers of medical assistance alcoholism treatment services for the purposes of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9.

19972. Fees shall be charged in accordance with the ability to pay for alcoholism treatment or rehabilitation services rendered, but shall not exceed the actual cost of such services; provided, that the director may waive the requirements of this section upon request of the governing body if he finds that the costs of collecting such fees will exceed the amount of fees collected. The office shall issue regulations relating to the setting of such fees.

19973. To continue county expenditures for legal proceedings

involving persons afflicted with alcoholism, the following costs incurred in carrying out this division shall be non-state-reimbursable charges:

(a) The costs involved in bringing a person in for 72-hour treatment and evaluation.

(b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary.

(c) The costs of court proceedings in cases of appeal from 14-day intensive treatment.

(d) The cost of legal proceedings in conservatorship other than the costs of conservatorship investigation as defined by regulations of the state department.

(e) The court costs in postcertification proceedings.

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to afford such assistance

SEC. 14 All officers and employees of the Office of Alcohol Program Management including those who, on the operative date of this chapter, are serving in the state civil service other than as temporary employees shall be transferred to the new Office of Alcoholism as constituted under this chapter. The status, positions and rights of such officers and employees shall not be affected by the transfer and shall be retained by them as officers and employees of the new Office of Alcoholism pursuant to the State Civil Service Act

The office succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction heretofore vested in the Office of Alcohol Program Management and not inconsistent with this division. On January 1, 1976, the office shall succeed to all the funds, positions, obligations, properties, and indebtedness of the Office of Alcohol Program Management which shall be abolished on that date. Wherever reference to the Office of Alcohol Program Management appears in any state law, it means the Office of Alcoholism.

SEC. 15. It is the intent of the Legislature that the state alcoholism program be part of a comprehensive state health program. The secretary shall report to the Legislature no later than April 1, 1976, regarding whether it is appropriate that the Office of Alcoholism be transferred to the Department of Health to become a separate and identifiable program. It is the further intent of the Legislature that such transfer shall take place when the Legislature finds that the Department of Health is able to effectively administer such alcoholism program.

SEC. 16. It is the intent of the Legislature, if this bill and Assembly Bill No. 1237 are both chaptered and become effective January 1, 1976, both bills amend Section 5604 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 1237, that the amendments to Section 5604 proposed by both bills be given effect and incorporated in Section 5604 in the form set forth

in Section 3.5 of this act. Therefore, Section 3.5 of this act shall become operative only if this bill and Assembly Bill No. 1237 are both chaptered and become effective January 1, 1976, both amend Section 5604, and this bill is chaptered after Assembly Bill No. 1237, in which case Section 3 of this act shall not become operative.

SEC. 17. It is the intent of the Legislature, if this bill and Assembly Bill No. 1776 are both chaptered and become effective January 1, 1976, both bills amend Section 5651 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 1776, that the amendments to Section 5651 proposed by both bills be given effect and incorporated in Section 5651 in the form set forth in Section 5.5 of this act. Therefore, Section 5.5 of this act shall become operative only if this bill and Assembly Bill No. 1776 are both chaptered and become effective January 1, 1976, both amend Section 5651, and this bill is chaptered after Assembly Bill No. 1776, in which case Section 5 of this act shall not become operative.

SEC. 18. Section 19907 of the Welfare and Institutions Code as added by Section 13 of this act shall become operative only if Senate Bill No. 204 of the 1975–76 Regular Session of the Legislature is enacted.

CHAPTER 1129

An act to amend Sections 17.1, 739, 883, 1050, 1711, 1760.4, 10000, 10617, 11250.5, 11307, 11310, 11325, 17102, and 18907, and to repeal Section 1123, of the Welfare and Institutions Code, relating to sex equality.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 17.1 of the Welfare and Institutions Code is amended to read:

17.1. Unless otherwise provided under the provisions of this code, to the extent not in conflict with federal law, the residence of a minor person shall be determined by the following rules:

(a) The residence of the parent with whom a child maintains his or her place of abode or the residence of any individual who has been appointed legal guardian or the individual who has been given the care or custody by a court of competent jurisdiction, determines the residence of the child.

(b) Wherever in this section it is provided that the residence of a child is determined by the residence of the person who has custody, "custody" means the legal right to custody of the child unless that right is held jointly by two or more persons, in which case "custody" means the physical custody of the child by one of the persons sharing

the right to custody.

(c) The residence of a foundling shall be deemed to be that of the county in which the child is found.

(d) If the residence of the child is not determined under (a), (b), (c) or (e) hereof, the county in which the child is living shall be deemed the county of residence, if and when the child has had a physical presence in the county for one year.

(e) If the child has been declared permanently free from the custody and control of his or her parents, his or her residence is the county in which the court issuing the order is situated.

SEC. 2. Section 739 of the Welfare and Institutions Code is amended to read:

739. (a) Whenever any person is taken into temporary custody under the provisions of Article 6 (commencing with Section 625) of this chapter and is in need of medical, surgical, dental, or other remedial care, the probation officer may, upon the recommendation of the attending physician or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of such medical, surgical, dental, or other remedial care. The probation officer shall notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before such care is provided, and if the parent, guardian, or person standing in loco parentis objects, such care shall be given only upon order of the court in the exercise of its discretion.

(b) Whenever it appears to the juvenile court that any person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize such remedial care or treatment for such person, the court, upon the written recommendation of a licensed physician or, if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or person standing in loco parentis, if any, may make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for such person.

(c) Whenever a ward or dependent child of the juvenile court is placed by order of the court within the care and custody or under the supervision of the probation officer of the county in which the ward or dependent child resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the ward or dependent child, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the probation officer may authorize such medical, surgical, dental, or other remedial care for the ward or dependent child, by licensed practitioners, as may from time to time appear necessary.

(d) Whenever it appears that a minor otherwise within the provisions of subdivision (a), (b), or (c) requires immediate

emergency medical, surgical, dental, or other remedial care, or whenever the probation officer cannot, with reasonable diligence, locate and notify the parent, guardian, or person standing in loco parentis of the need of the minor for such care, the court, upon the written recommendation of a licensed physician or, if the minor needs dental care, a licensed dentist may make an order authorizing, or the probation officer, upon the written recommendation of a licensed physician or, if the minor needs dental care, a licensed dentist may authorize, the performance of such care as is reasonably necessary under the circumstances, without notice to the parent, guardian, or person standing in loco parentis.

(e) In any case in which the court orders the performance of any medical, surgical, dental, or other remedial care pursuant to this section, the court may also make an order authorizing the release of information concerning such care to probation officers, parole officers, or any other qualified individuals or agencies caring for or acting in the interest and welfare of the minor under order, commitment, or approval of the court.

(f) Nothing in this section shall be construed as limiting the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the minor by order of the court, in providing any medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state.

(g) The parent of any person described in this section may authorize the performance of medical, surgical, dental, or other remedial care provided for in this section notwithstanding his or her age or marital status. In nonemergency situations the parent authorizing the care shall notify the other parent prior to the administration of such care.

SEC. 3. Section 883 of the Welfare and Institutions Code is amended to read:

883. The wards committed to such homes, ranches, camps, or forestry camps may be required to labor on the buildings and grounds thereof, on the making of forest roads for fire prevention or firefighting, on forestation or reforestation of public lands, or on the making of firetrails or firebreaks, or to perform any other work or engage in any studies or activities on or off of the grounds of such homes, ranches, camps, or forestry camps prescribed by the probation department, subject to such approval as the county board of supervisors by ordinance requires.

Such wards may not be required to labor in fire suppression when under the age of 16 years.

Wards between the ages of 16 years and 18 years may be required to labor in fire suppression if all of the following conditions are met:

(a) The parent or guardian of the ward has given permission for such labor by the ward.

(b) The ward has completed 80 hours of training in forest firefighting and fire safety, including, but not limited to, the handling of equipment and chemicals, survival techniques, and first aid.

Whenever any ward committed to such camp is engaged in fire prevention work or the suppression of existing fires, he or she shall be subject to worker's compensation benefits to the same extent as a county employee, and the board of supervisors shall provide and cover any such ward committed to such camp while performing such service, with accident, death and compensation insurance as is otherwise regularly provided for employees of the county.

SEC. 4. Section 1050 of the Welfare and Institutions Code is amended to read:

1050. The superintendent of the institutions under this chapter shall be persons of high moral character, specially qualified for the position.

SEC. 5. Section 1123 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 1711 of the Welfare and Institutions Code is amended to read:

1711. The authority shall consist of eight members who shall devote their entire time to its work. The appointing authority shall ensure that there is a representation of persons of both sexes on the authority.

SEC. 7. Section 1760.4 of the Welfare and Institutions Code is amended to read:

1760.4. The wards housed in forestry camps established by the Department of the Youth Authority may be required to labor on the buildings and grounds of the camp, on the making of forest roads for fire prevention or firefighting, on forestation or reforestation of public lands, or on the making of firetrails and firebreaks, or to perform any other work or engage in any studies or activities prescribed or permitted by the department or any officer designated by it. Such wards may be required to labor in fire suppression if all of the following conditions are met:

(a) The ward is under the age of 18 years and the parent or guardian of the ward has given permission for such labor by the ward or the ward is 18 years of age or over.

(b) The ward has received not less than 16 hours of training in forest firefighting and fire safety.

The department may provide, in cooperation with the Department of Parks and Recreation and the Department of Conservation or otherwise, for the payment of wages to the wards for work they do while housed on such camps, the sums earned to be paid in reparation, or to the parents or dependents of the ward, or to the ward in such manner and in such proportions as the Department of the Youth Authority directs.

SEC. 8. Section 10000 of the Welfare and Institutions Code is amended to read:

10000. The purpose of this division is to provide for protection, care, and assistance to the people of the state in need thereof, and to promote the welfare and happiness of all of the people of the state by providing appropriate aid and services to all of its needy and

distressed. It is the legislative intent that aid shall be administered and services provided promptly and humanely, with due regard for the preservation of family life, and without discrimination on account of race, national origin or ancestry, religion, sex, marital status, or political affiliation; and that aid shall be so administered and services so provided, to the extent not in conflict with federal law, as to encourage self-respect, self-reliance, and the desire to be a good citizen, useful to society.

SEC. 9. Section 10617 of the Welfare and Institutions Code is amended to read:

10617. In fixing rates for out-of-home care in nonmedical facilities authorized to provide care for recipients of public assistance, the State Department of Benefit Payments shall establish a rate plan providing a differential in rate allowances related to the differences in the degree of care required by recipients. The rate structure shall reflect differences in accordance with the specific types of services that are rendered by the facility in providing care for recipients.

In establishing the rate structure, the State Department of Benefit Payments shall strive to improve and increase the range of services provided by out-of-home facilities in order that recipients may receive the type of care they require at a reasonable cost.

In order to keep people in their own homes whenever possible, the State Department of Health shall develop an expanded range of home care services that will make it possible for people to remain in their own homes or homes of their own choosing with safety. The State Department of Health shall give particular attention to the training of homemakers to be employed directly by county departments.

In developing plans for the recruitment and training of homemakers, the State Department of Health shall give priority to the training and employment of recipients of public assistance. Emphasis shall be given to arranging hours of work and training so that parents with primary responsibility for the care of children can participate in the program, to the extent not in conflict with federal law.

SEC. 9.5. Section 11250.5 of the Welfare and Institutions Code is amended to read:

11250.5. (a) Except for individuals provided for in Section 11251 and as provided in subdivision (b), every individual, as a condition for eligibility for aid under this chapter, shall register with the Department of Employment Development for manpower services, training, and employment.

(b) The following individuals are not required to register with the Department of Employment Development:

(1) An individual under 16;

(2) A child attending school full time;

(3) An individual who is ill, incapacitated or of advanced age;

(4) An individual so remote from a work incentive project that his effective participation is precluded;

(5) An individual whose presence in the home is required because of illness or incapacity of another member of the household;

(6) A parent with primary responsibility for the care of a child under the age of six or other relative who is caring for such child;

(7) A parent or other relative who is caring for a child if the other parent or another adult relative meets the following requirements:

(i) The other parent or adult relative is in the home;

(ii) He or she is not excluded by paragraph (1), (2), (3), (4), or (5) of this subdivision; and

(iii) He or she has not failed to register as required by this section or has not been found pursuant to Chapter 4 (commencing with Section 5300) of Division 2 of the Unemployment Insurance Code or to Section 11308.7 to have refused without good cause to participate under a work incentive program to accept employment, to the extent not in conflict with federal law.

SEC. 10. Section 11307 of the Welfare and Institutions Code is amended to read:

11307. The State Department of Health shall provide special safeguards, to the extent not in conflict with federal law, in the certification of a parent with primary responsibility for the care of preschool age children for participation in work incentive programs to assure that such participation shall be in the best interest of such parent and the parent's family, and that adequate child care will be provided in such parent's absence.

SEC. 11. Section 11310 of the Welfare and Institutions Code is amended to read:

11310. (a) Except for individuals provided for in Section 11251 and as provided in subdivision (b), every individual, as a condition for eligibility for aid under this chapter, shall register with the Department of Employment Development for manpower services, training, and employment.

(b) The following individuals are not required to register with the Department of Employment Development:

(1) An individual under 16;

(2) A child attending school full time;

(3) An individual who is ill, incapacitated or of advanced age;

(4) An individual so remote from a work incentive project that his effective participation is precluded;

(5) An individual whose presence in the home is required because of illness or incapacity of another member of the household;

(6) A parent with primary responsibility for the care of a child under the age of six or other relative who is caring for such child;

(7) A parent or other relative who is caring for a child if the other parent or another adult relative meets the following requirements:

(i) The other parent or adult relative is in the home;

(ii) He or she is not excluded by paragraph (1), (2), (3), (4), or (5) of this subdivision; and

(iii) He or she has not failed to register as required by this section or has not been found pursuant to Chapter 4 (commencing with

Section 5300) of Division 2 of the Unemployment Insurance Code or to Section 11308.7 to have refused without good cause to participate under a work incentive program to accept employment, to the extent not in conflict with federal law.

SEC. 12. Section 11325 of the Welfare and Institutions Code is amended to read:

11325. Assisting recipients of aid to become self-supporting through implementation of the work incentive programs established in accordance with subdivision (19) (A) of Section 402(a) of the Social Security Act, as amended, as well as through such additional or supplemental work programs permitted by federal law is a matter of public concern.

To the extent permitted by federal law, it is the intention of the Legislature that this article operate as a demonstration program. The Director of Employment Development shall develop a plan for the phased implementation of community work experience programs. As this plan is implemented, the director shall designate specific geographic areas within which community work experience programs shall be established. Such geographic areas shall consist of a county or portion of a county, as the director may designate.

The Director of Employment Development shall develop community work experience programs through contracts with any public entity or nonprofit agency or organization, subject to the conditions and standards set forth below.

All public entities shall cooperate in the development and implementation of community work experience programs for welfare applicants and recipients in accordance with criteria and standards established by the State Department of Health and Department of Employment Development, provided that any program undertaken by a public agency shall be done with the consent of that agency.

For the purpose of this article, a "community work experience program" is a program to provide work experience and training for individuals who are not otherwise able to obtain employment or who are not actively participating in training or education programs, in order that such participants may move into regular employment

Community work experience programs shall provide for development of employability through actual work experience and training; and shall be designed to enable individuals employed under community work experience programs to move promptly into regular public or private employment or into training or public service employment programs to improve their employability in regular public or private employment. The facilities of the Department of Employment Development shall be utilized to find employment opportunities for recipients under this program.

Community work experience programs under this article shall be confined to projects which serve a useful public purpose such as in the fields of health, social service, environmental protection, education, urban and rural development and redevelopment,

welfare, recreation, public facilities, and public safety. To the extent possible, the prior training, experience and skills of a recipient shall be utilized in making appropriate work experience assignments.

The Director of Employment Development shall designate the procedures for inclusion of recipients of public assistance within community work experience programs, to include the geographic area within which such programs shall be established. To the extent permitted by federal law, recipients of public assistance referred by the Department of Employment Development to a community work experience program shall, as a condition of receiving public assistance, participate in such program, except where good cause exists for failure to accept and continue to participate in such program.

No person, who is a recipient of aid under this chapter under the age of seventeen (17) years, or is the parent with primary responsibility for the care of a child the age of six (6) years or under in the home, or who is otherwise employed or actively participating in training programs, education programs, or public service employment programs, or is incapacitated, shall be required to participate in community work experience programs. No parent with primary responsibility for the care of a child over the age of six (6) years shall be required to participate in such community work experience programs unless suitable child care is available.

A community work experience program established under this section shall provide:

(1) Appropriate standards for health, safety, and other conditions applicable to the performance of work, including workers' compensation insurance.

(2) That the program does not result in displacement of persons currently employed, or the filling of established unfilled position vacancies.

(3) That the program does not apply to jobs covered by a collective bargaining agreement.

(4) Reasonable conditions of work, taking into account the geographic region, the residence of the participants, and the proficiency of the participants.

(5) That participants will not be required, without their consent, to travel an unreasonable distance from their homes or remain away from their homes overnight.

(6) That participants will not be required to work in excess of 80 hours in any calendar month, nor in excess of eight hours during any calendar day in order to provide time to seek regular employment, provided, however, that in no case will any participant be required to participate in work experience programs for a period of time which would result in a total number of hours per month, which, if compared to the amount of the grant, in relation to the state or federal minimum wage, whichever is higher, would result in a ratio that would be less than such minimum wage Nothing in this section shall be construed as requiring or permitting the payment of aid in

exchange, or as compensation, for work performed.

(7) That participation shall not result in any cost to a participant, provision shall be made for transportation and all other costs reasonably necessary to and directly related to participation in the program. Nothing contained herein shall entitle any participant to a salary or to any other work or training expense provided under any other provision of law by reason of his or her participation.

(8) A recipient shall not be placed in a community work experience program under this section unless all available positions within the geographic area served by a community work experience program have been filled under work incentive programs established pursuant to Chapter 3 (commencing with Section 5200) of Division 2 of the Unemployment Insurance Code or under any other job development program established pursuant to state law. To the extent feasible, work incentive program positions shall be administered to maximize utilization of that program prior to placement of recipients in community work experience programs.

No individual shall be required to participate in a community work experience program if:

(1) The position offered is vacant due directly to a strike, lockout, or other labor dispute.

(2) As a condition of accepting the work or continuing in the work, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(3) Acceptance would be an unreasonable act because of hardship imposed on the person or his or her family due to illness or remoteness, to the extent not in conflict with federal law.

SEC. 13. Section 17102 of the Welfare and Institutions Code is amended to read:

17102. The residence of an unmarried minor child is the residence of the parent or parents with whom a child maintains his or her place of abode or of the parent who has the legal custody of the minor.

The residence of an orphan is that of the last deceased person who had his or her legal custody.

The residence of a dependent child who has been declared free from the custody and control of his or her parent or parents, by order of the juvenile court, is not changed by change of the residence of the parent or parents.

The provisions of this section apply to the extent not in conflict with federal law.

SEC. 14. Section 18907 of the Welfare and Institutions Code is amended to read:

18907. In the determination of eligibility for the purchase of food stamps, there shall be no discrimination against any household by reason of race, color, religious creed, national origin, sex, marital status, or political belief to the extent not in conflict with federal law.

SEC. 15. The provisions of this act shall be operational to the

extent they are not in conflict with federal law.

SEC. 16. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1130

An act to amend Section 29140.6 of, and to add Section 99233.9 to, the Public Utilities Code, to amend Section 7102 of the Revenue and Taxation Code, and to add Chapter 13 (commencing with Section 2540) to Division 3 of the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Section 29140.6 of the Public Utilities Code is amended to read·

29140.6. (a) Except as otherwise provided in subdivision (b), if the district receives funds for operational purposes from any source made available for the first time to the district after September 26, 1974, the amount specified in subdivision (b) of Section 29142 shall be reduced by the amount of such funds.

(b) Notwithstanding the provisions of subdivision (a), the district may receive federal funds for the purpose of extending the hours of operation of the system, and the receipt and use of such funds for such purpose shall not result in a reduction of the amount specified in subdivision (b) of Section 29142.

SEC. 1.5. Section 99233.9 is added to the Public Utilities Code, to read:

99233.9. Any county or city entering into an agreement with the Department of Transportation for the extension of passenger rail services, or the upgrading of other commuter rail services, pursuant to Section 4 of the act adding this section may file claims with the transportation planning agency for all, or a portion, of its required contribution toward the cost of providing such services. Notwithstanding subdivision (e) of Section 99233, the transportation planning agency shall make the required allocations to the county or city for purposes of this section after allocations are made pursuant to subdivisions (a), (b), and (c) of Section 99233. The capital expenditure requirements of Section 99267 shall not apply to such allocations.

SEC. 1.5. Section 7102 of the Revenue and Taxation Code is

amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part or be transferred in the following manner:

(a) All revenues, less refunds, derived under this part at the 3¾-percent rates, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel, which would not have been received if the sales and use tax rate had remained at 4 percent and Section 6357 had not been amended at the 1971 Regular Session of the Legislature, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, for each fiscal year, commencing with the 1972–73 fiscal year and ending with the first six months of the 1975–76 fiscal year on December 31, 1975. Effective January 1, 1976, the estimate shall be made as soon as practicable after the close of each calendar year, and the amount so estimated shall be transferred to the Transportation Planning and Research Account in the State Transportation Fund.

(b) The balance shall be transferred to the General Fund.

SEC. 2. Chapter 13 (commencing with Section 2540) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 13. ABANDONED RAILROAD LINES

2540. The Legislature hereby declares that it is the policy of the state to acquire abandoned railroad lines when the right-of-way for such lines has a potential public transportation use including, but not limited to, a use for highways, busways, bicycles, pedestrians, or guideways.

2542. The Abandoned Railroad Account is hereby created in the State Transportation Fund. The money in the Abandoned Railroad Account is appropriated to the department for carrying out the purposes of this chapter.

2544. The department shall prepare and submit to the Legislature not later than July 1, 1976, a priority list of abandoned railroad lines having rights-of-way that may be developed for public transportation uses. In preparing the list, the department shall specifically consider the studies conducted by the State Transportation Board pursuant to Section 13990.10 of the Government Code, and shall also consult with any city, county, transit district, or regional transportation planning entity within whose boundaries such abandoned railroad lines are located.

2546. With money made available for such purpose, the department shall acquire the right-of-way referred to in this chapter and shall offer such property to all cities, counties, and transit districts within whose jurisdiction such property is located for development for public transportation purposes. If such public entities indicate an intent to develop such property, the department shall enter into an agreement with them providing for the

conveyance of the property for the development of the public transportation use, and for such other matters as may be agreed to, provided that, if the proposed use is for transit purposes, the agreement shall provide for the public entity to repay to the department for deposit in the Abandoned Railroad Account an amount equal to that expended by the department for the acquisition of the property. If no agreement is reached within three years of the acquisition of the property by the department, such property shall be sold to the highest bidder and the money received shall be deposited in the Abandoned Railroad Account.

2548. In the name of the people of the State of California or, upon authorization from a city, county, or transit district, in the name of such city, county, or transit district, the department may condemn for public transportation purposes, under the provisions of the Code of Civil Procedure relating to eminent domain, any right-of-way underlying an abandoned railroad line in fee or any lesser interest found by the department to be necessary.

The Legislature hereby finds and declares that the acquisition of such property is a public necessity and is compatible with the greatest public good and the least private injury.

SEC. 3. The Department of Transportation shall acquire:

(a) That portion of the Winters Branch abandoned by the Southern Pacific Transportation Company between Vaca Valley and Esparto, in the County of Solano and the County of Yolo.

(b) That portion of the abandoned Sacramento Northern Railway Line from near 16th and B Streets in Sacramento to M Street in Rio Linda, in the County of Sacramento.

(c) That portion of the abandoned Baldwin Park Branch of the Southern Pacific Transportation Company between El Monte and La Rica Avenue in Baldwin Park, in the County of Los Angeles, provided that the contribution by the department shall not exceed one-half of the cost of acquisition.

SEC. 4. (a) For the 1976–77 to 1978–79 fiscal years, inclusive, three million dollars ($3,000,000) shall be allocated by the Secretary of the Business and Transportation Agency to the Department of Transportation to undertake a program of projects for the extension of intercity passenger rail services provided by the National Rail Passenger Corporation (Amtrak) under Section 403(b) of the Rail Passenger Service Act of 1970 or the upgrading of other commuter rail services.

(b) Prior to commencing any such project, the department shall enter into an agreement with any city or county that desires to participate in the project. The agreement shall set forth the operational and financial terms and conditions under which the project shall be carried out.

(c) Except for projects that connect urbanized areas with populations of more than 500,000, the state's contribution to the project shall not exceed one-half of the funds needed to secure such services from Amtrak or the upgrading of other commuter rail

services. The funding provided by participating counties and cities may include funds derived from any source, including funds made available pursuant to Section 99233.9 and subdivision (b) of Section 99400 of the Public Utilities Code.

SEC. 5. (a) In creating the bus transportation demonstration program pursuant to this section, it is the intent of the Legislature that new methods of bus property management, scheduling, marketing, and other management techniques necessary to improve overall passenger service, transit patronage, efficiency, and methods to bring down operating deficits be studied and demonstrated.

(b) The Secretary of the Business and Transportation Agency shall adopt such rules and regulations for the allocation of funds for the 1976–77 to 1978–79 fiscal years, inclusive, for projects in the program. All projects shall be reviewed for their cost effectiveness.

(c) Projects shall include, but not be limited to, those to determine any of the following:

(1) Disincentives for motor vehicle use and disincentives for low-occupancy motor vehicle use

(2) Implementation of programs and policies regarding transportation for low-mobility groups.

(3) Effects of rules, regulations, and laws on public and private transportation delivery systems.

(4) Effects of publicly owned transportation systems competing with private transportation systems.

(5) Improved operations, methods, procedures, and management for public transportation systems.

(6) Coordinated transit service techniques.

(7) The feasibility and demonstration of a single, coordinated social service delivery system involving the transportation of participants in federal, state, or locally funded social service programs in a single jurisdiction.

SEC. 6. (a) For the 1976–77 to 1978–79 fiscal years, inclusive, the Secretary of the Business and Transportation Agency shall allocate funds for rural public transportation projects, which shall include, but not be limited to, dial-a-ride services and other paratransit systems capable of offering flexible scheduling and routing, or both, and capable of being operational within six months of project approval.

(b) The projects shall be selected so as to enable the state to assist governmental agencies and nonprofit corporations in providing new and improved rural transit services, to develop, test, and evaluate new and improved transit delivery systems which meet the mobility needs of persons in rural areas in the most cost-effective manner, and to maximize federal and state funds available for rural transportation projects regardless of funding source.

(c) At least one project shall be conducted which studies and demonstrates the feasibility of developing a single coordinated transportation delivery system for the elderly, handicapped, and low-income individuals who are participants in federal, state, or

locally funded social service programs in a single jurisdiction.

SEC. 7 (a) The Secretary of the Business and Transportation Agency, in cooperation with local governments, shall develop specific criteria and guidelines for the evaluation of proposed projects submitted pursuant to Section 5 or 6 of this act, which criteria and guidelines shall, as a minimum, require that the project shall be reviewed relative to its cost effectiveness, shall be consistent with any applicable regional and local transportation plans, shall be technologically and economically feasible, shall respond to a demonstrated community need, and shall be compatible with the environmental objectives of the community.

(b) The criteria and guidelines shall establish procedures for use by agencies administering projects, and shall require that each application include proposed evaluation criteria and guidelines which may be utilized in assessing the effectiveness of the project.

(c) The Department of Transportation shall evaluate each proposal or application for conformity with the criteria and guidelines and shall recommend to the secretary, for the secretary's approval, those proposals and applications which the department determines have met the criteria and guidelines.

(d) The secretary shall report annually, on February 15th, to the Legislature on the projects funded under this act. The report shall include, but not be limited to, the following:

(1) The status of all projects.

(2) An evaluation of each project completed since the filing of the previous year's report, including recommendations regarding the suitability of the project for application in other communities.

(3) A synopsis of each project proposal under review by the department for possible funding in the next fiscal year.

(4) A comprehensive analysis of each project and a statement relative to its cost effectiveness.

SEC. 8. The Secretary of the Business and Transportation Agency shall let a contract for the purpose of converting a bus from conventional power to hydrogen power in order to demonstrate the air quality benefits, cost effectiveness, and operational practicality of hydrogen power in bus transportation. The demonstration project shall be conducted in a local bus system in an area of the state experiencing severe and continuing air quality problems.

SEC. 9. The Secretary of the Business and Transportation Agency shall allocate one million dollars ($1,000,000) for the 1976–77 to 1978–79 fiscal years, inclusive, for public transportation demonstration projects

Commencing with September 1, 1977, and each September 1 for the next two years, the secretary shall submit an annual report to the Legislature on the projects funded under this section

SEC. 10. The Secretary of the Business and Transportation Agency shall allocate the sum of two hundred thousand dollars ($200,000) during each fiscal year for the period from 1975–76 to 1977–78, inclusive, to the Institute of Transportation and Traffic

Engineering of the University of California for the development of transit management programs.

The programs shall incorporate training and supporting research in those areas where individuals are needed to assume operating and other responsibilities for rapid transit guideway systems, and shall include, among other things, training and supporting research with respect to systems and intermodal planning, fiscal management and administrative procedures, operations and maintenance, control systems, procurement of right-of-way and equipment and services, and energy and environmental relationships.

SEC. 11. The sum of four million nine hundred forty thousand dollars ($4,940,000) shall be allocated during the 1976–77 to 1978–79 fiscal years, inclusive, by the Secretary of the Business and Transportation Agency to the Department of Transportation (a) for the construction of a commuter bikeway in each county group as defined in Section 187 of the Streets and Highways Code and (b) to make improvements on the Bikecentennial Route as designated by Resolution Chapter 31 of the 1975–76 Regular Session of the Legislature.

SEC. 11.5. The Department of Transportation shall immediately institute a testing and evaluation program, in cooperation with user groups, local agencies, the Department of Parks and Recreation, and the Department of the California Highway Patrol, of nonmotorized transportation facilities to determine the most desirable engineering, traffic safety, and user characteristics for such facilities.

The Department of Transportation shall use the result of such program to refine, modify, and supplement the general design criteria and regulations established and adopted pursuant to Sections 156 4 and 156.6 of the Streets and Highways Code.

SEC. 12. (a) The Department of Transportation shall conduct an engineering study to determine the feasibility and cost of upgrading and utilizing existing tracks for the development of an intracounty commuter-railway system within the County of Santa Clara.

The study shall consider all the possible routes and shall also include recommendations for funding such a project. The department shall submit a report of its findings and recommendations to the Legislature not later than January 1, 1977.

(b) The department shall conduct the study in cooperation with the Southern Pacific Transportation Company, the Public Utilities Commission, the Santa Clara County Transit District, the National Railroad Passenger Corporation, and other interested agencies. The department may employ a consultant to assist in the study if the department determines such consulting services are necessary.

(c) The department shall not undertake the engineering study unless the Santa Clara County Transit District agrees to reimburse the department for one-half of the cost of the study.

SEC. 13. (a) The Division of Mass Transportation of the Department of Transportation shall conduct an engineering

feasibility study to determine cost for upgrading existing tracks and constructing new tracks where needed in order to provide railway service across the Santa Cruz Mountains between the Cities of San Jose and Santa Cruz.

(b) The study shall consider all the possible routes and shall also include recommendations for funding such a project. The division shall submit a report of its findings and recommendations to the Legislature not later than January 1, 1977.

(c) The division shall conduct the study in cooperation with the Southern Pacific Transportation Company, the Public Utilities Commission, and other interested agencies. The division may employ a consultant to assist in the study if the division determines such consulting services are necessary.

SEC. 14. (a) The Metropolitan Transportation Commission shall conduct a study on alternative forms of transit development within the West Bay Corridor in the San Francisco Bay area. The study shall include an assessment of the economic and social impacts on transit-dependent groups of each of the alternatives considered. The study shall be directed to determine the feasibility of:

(1) Upgrading the Southern Pacific Transportation Company's commuter service to a transit service level.

(2) Extending the San Francisco Bay Area Rapid Transit District's service from Daly City to San Jose.

(3) Extending the San Francisco Bay Area Rapid Transit District's service to the San Francisco International Airport and upgrading the Southern Pacific Transportation Company's service from Millbrae to San Jose.

(4) Implementing other transit alternatives.

(b) The commission shall submit a report on its study to the Legislature not later than January 1, 1977. The report shall include its comments and recommendations, and shall include a cost comparison of the various transit alternatives studied.

(c) The commission may conduct the study or contract with other entities to conduct all, or a portion, of the study.

To the extent possible, the study shall utilize the data compiled by previous transportation studies undertaken with respect to the West Bay Corridor in the San Francisco Bay area.

SEC. 15. (a) The Southern California Association of Governments shall contract for a transit needs study in the unincorporated East Los Angeles area, which study shall include the gathering of primary data, an assessment of the performance of existing transit systems, an evaluation of other transportation alternatives, and an evaluation of the primary data in terms of existing transit systems and other transportation alternatives in the unincorporated East Los Angeles area.

(b) The study shall also be directed to developing such basic data and methodologies that would be usable by decisionmakers in establishing transportation policies in other areas of the state with a high transit dependency.

(c) Not later than July 1, 1976, the Southern California Association of Governments shall submit copies of the transit needs study for the unincorporated East Los Angeles area to the Legislature and the State Transportation Board.

(d) In financing this study, it is the intent of the Legislature to encourage research in the area of determining transit needs and to develop new technologies and methodologies which will have broad application throughout the state and which will provide transportation policymakers with critical information when making transportation decisions.

SEC. 16. The sum of eighteen million nine hundred two thousand five hundred dollars ($18,902,500) is hereby appropriated from the Transportation Planning and Research Account, as created by Section 99305 of the Public Utilities Code, to the State Controller for allocation as follows:

(a) Three million five hundred thousand dollars ($3,500,000) to the Abandoned Railroad Account in the State Transportation Fund for purposes of Chapter 13 (commencing with Section 2540) of Division 3 of the Streets and Highways Code and Section 3 of this act.

(b) Three million dollars ($3,000,000) to the Secretary of the Business and Transportation Agency for allocation pursuant to Section 4 of this act.

(c) Two million dollars ($2,000,000) to the Secretary of the Business and Transportation Agency for allocation pursuant to Section 5 of this act.

(d) One million dollars ($1,000,000) to the Secretary of the Business and Transportation Agency for allocation pursuant to Section 6 of this act.

(e) One hundred twenty-five thousand dollars ($125,000) to the Secretary of the Business and Transportation Agency to let a contract pursuant to Section 8 of this act.

(f) One million dollars ($1,000,000) to the Secretary of the Business and Transportation Agency for allocation pursuant to Section 9 of this act.

(g) Six hundred thousand dollars ($600,000) to the Secretary of the Business and Transportation Agency for allocation to the Institute of Transportation and Traffic Engineering of the University of California pursuant to Section 10 of this part.

(h) Four million nine hundred forty thousand dollars ($4,940,000) to the Secretary of the Business and Transportation Agency for allocation to the Department of Transportation for bikeway purposes pursuant to Section 11 of this act.

(i) Sixty thousand dollars ($60,000) to the Department of Transportation to institute a testing and evaluation program pursuant to Section 11.5 of this act.

(j) Thirty-seven thousand five hundred dollars ($37,500) to the Department of Transportation to conduct an engineering study in the County of Santa Clara pursuant to Section 12 of this act.

(k) Seventy-five thousand dollars ($75,000) to the Department of

Transportation for its Division of Mass Transportation to conduct an engineering feasibility study pursuant to Section 13 of this act.

(*l*) Three hundred fifty thousand dollars ($350,000) to the Metropolitan Transportation Commission to conduct a study pursuant to Section 14 of this act.

(m) One hundred fifty thousand dollars ($150,000) to the Southern California Association of Governments to contract for a transit needs study pursuant to Section 15 of this act.

(n) Seven hundred fifty thousand dollars ($750,000) to the Department of Transportation for the construction of the terminal facility described in Section 3 of Chapter 1428 of the Statutes of 1974. The department shall seek federal and local funds to aid in financing such construction.

(o) Three hundred fifteen thousand dollars ($315,000) to the Department of Transportation for expenditure during the 1975–76 fiscal year to administer federal grant funds under the Urban Mass Transportation Act of 1964 (49 U.S.C. Sec. 1601 et seq.).

(p) One million dollars ($1,000,000) to the City and County of San Francisco for capital improvements to its public transit guideway system to provide accelerated turnaround facilities, which may include storage facilities, in order that the headway time at the terminal where the facilities will be located will not exceed the headway time maintained on other portions of the system, if 80 percent of total project cost is funded by the city and county from other sources.

CHAPTER 1131

An act to amend Sections 2004 and 2200 and the heading of Chapter 2 (commencing with Section 2200) of Division 2 of, to add Sections 2005, 2006, 2007, 2008, and 2630 to, to add Chapter 9 (commencing with Section 2710) to Division 2 of, and to repeal and add Article 3 (commencing with Section 660) of Chapter 2 of Division 1 of, the Public Resources Code, relating to mining and geology.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 28, 1975]

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

SECTION 1. Article 3 (commencing with Section 660) of Chapter 2 of Division 1 of the Public Resources Code is repealed.

SEC. 2. Article 3 (commencing with Section 660) is added to Chapter 2 of Division 1 of the Public Resources Code, to read:

Article 3. State Mining and Geology Board

660 There is in the department a State Mining and Geology Board consisting of nine members appointed by the Governor.

661. As used in this article, "board" means the State Mining and Geology Board and "division" means the Division of Mines and Geology of the department.

662. One member of the board shall be a registered geologist with background and experience in mining geology; one member shall be a mining engineer with background and experience in mining minerals in California; one member shall be a registered civil engineer with background and experience in soil engineering; one member shall be a representative of local government with background and experience in urban planning; one member shall have background and experience in the field of environmental protection or the study of ecosystems; one member shall be a registered geologist, registered geophysicist, registered civil engineer, or registered structural engineer with background and experience in seismology; one member shall be a landscape architect with background and experience in soil conservation or revegetation of disturbed soils; one member shall have background and experience in mineral resource conservation, development, and utilization; and one member shall not be required to have specialized experience. All members of the board shall represent the general public interest.

663. (a) No member of the board shall participate in any action of the board which involves himself or any person who engages in surface mining operations with which he is connected as a director, officer, or employee, or in which he has a financial interest within the meaning of Section 87103 of the Government Code.

(b) No board member shall participate in any proceeding before any state or local agency as a consultant or in any other capacity on behalf of any person who engages in surface mining operations.

(c) Upon request of any person, or on his own initiative, the Attorney General may file a complaint in the superior court for the county in which the board has its principal office alleging that a board member has knowingly violated this section, alleging the facts upon which the allegation is based, and asking that the member be removed from office. Further proceedings shall be in accordance as nearly as practicable with rules governing civil actions. If after trial the court finds that the board member has knowingly violated this section it shall order the member removed from office.

664. Each member of the board shall hold office for four years and until his successor is appointed. Vacancies shall be immediately filled by the Governor.

665. The members first appointed to the board shall classify themselves by lot so that the term of three members shall expire January 15, 1977, the term of two members shall expire January 15, 1978, the term of two members shall expire January 15, 1979, and the

term of two members shall expire January 15, 1980.

666. The appointments of members of the board shall be subject to confirmation by the Senate, and the refusal or failure of the Senate to confirm an appointment shall create a vacancy in the office to which the appointment was made. Each member, however, shall have and be able to exercise, all the powers, duties, and responsibilities as are prescribed by this code prior to his confirmation. Such confirmation shall be made not earlier than 30 days and not later than 90 days after such appointment.

667. The members of the board shall receive no compensation for their services, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.

668. The board shall maintain its headquarters in Sacramento and shall hold meetings at such times and at such places as shall be determined by it. Five members of the board shall constitute a quorum for the purpose of transacting any business of the board. A majority affirmative vote of the total authorized membership of the board shall be necessary to adopt, amend, or repeal state policy for the reclamation of mined lands adopted pursuant to Article 4 (commencing with Section 2755) of Chapter 9 of Division 2. All meetings of the board shall be open to the public.

669. The Governor shall designate the chairman of the board from among the members of the board. The person designated as the chairman shall hold such office at the pleasure of the Governor. The board shall annually elect a vice chairman from among its members.

670. The board may appoint an executive officer who shall be exempt from civil service pursuant to subdivision (e) of Section 4 of Article XXIV of the California Constitution. The board may also employ such clerical assistance as may be necessary for the proper discharge of its duties. Neither the board nor its employees shall have or be given any powers in relation to the administration of the division.

671. The director shall have no power to amend or repeal any order, ruling, or directive of the board.

672. The board shall represent the state's interest in the development, utilization, and conservation of the mineral resources of the state and the reclamation of mined lands, as provided by law, and federal matters pertaining to mining, and shall determine, establish, and maintain an adequate surface mining and reclamation policy. The board shall also represent the state's interest in the development of geological information necessary to the understanding and utilization of the state's terrain, and information pertaining to earthquake and other geologic hazards. General policies for the division shall be determined by the board

673. The board shall also serve as a policy and appeals board for the purposes of Chapter 7.5 (commencing with Section 2621) of Division 2.

674. On or before December 31 of each year, the board shall submit to the Governor and the Legislature recommendations

regarding needed research projects relating to the state's terrain, mineral resources, mining, the reclamation of mined lands, and earthquakes and other geologic hazards.

675. The board may provide for a statewide program of research regarding the technical phases of reclaiming mined lands which may be delegated to it by law and may accept funds from the United States or from any person to aid in carrying out the provisions of this section. The board may conduct such a program independently or by contract or in cooperation with any person, public or private organization, federal agency, or state agency, including any political subdivision of the state.

676. The board shall provide for a public information program on matters involving the state's terrain, mineral resources, mining, the reclamation of mined lands, and earthquakes and other geologic hazards.

677. In accordance with the State Civil Service Act, the board shall nominate, and the director shall appoint, as the State Geologist, a registered geologist, possessing general knowledge of mineral resources, structural geology, seismology, engineering geology, and related disciplines in science and engineering, and the reclamation of mined lands and waters. The State Geologist shall be Chief of the Division of Mines and Geology and shall administer the policies of the board under the supervision of the director.

678. The director may authorize the State Geologist to exercise his power to appoint employees of the division in accordance with the State Civil Service Act. The director may authorize the State Geologist, or any employee of the division, to exercise any power granted to, or perform any duty imposed upon, the director by the State Civil Service Act.

SEC. 3. Section 2004 of the Public Resources Code is amended to read:

2004. "Person" includes any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof.

SEC. 4. Section 2005 is added to the Public Resources Code, to read:

2005. "Minerals" means any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

SEC. 5. Section 2006 is added to the Public Resources Code, to read:

2006. "State Geologist" means the individual holding the office created by Section 677.

SEC. 6. Section 2007 is added to the Public Resources Code, to read:

2007. "Exploration" or "prospecting" means the search for minerals by geological, geophysical, geochemical or other

techniques, including, but not limited to, sampling, assaying, drilling, or any surface or underground works needed to determine the type, extent, or quantity of minerals present.

SEC. 7. Section 2008 is added to the Public Resources Code, to read:

2008. "Board" means the State Mining and Geology Board.

SEC. 8. The heading of Chapter 2 (commencing with Section 2200) of Division 2 of the Public Resources Code is amended to read:

CHAPTER 2. THE DIVISION OF MINES AND GEOLOGY

SEC. 9. Section 2200 of the Public Resources Code is amended to read:

2200. For the purposes of this chapter, "mine" includes all mineral bearing properties of whatever kind or character, whether underground, or in a quarry or pit, or any other source from which any mineral substance is or may be obtained.

SEC. 10. Section 2630 is added to the Public Resources Code, to read:

2630. In carrying out the provisions of this chapter, the State Geologist and the board shall be advised by the Geologic Hazards Technical Advisory Committee consisting of nine members nominated by the State Geologist and appointed by the board. Members of the committee shall be selected and appointed on the basis of their professional qualifications and training in seismology, structural geology, engineering geology, or related disciplines in science and engineering, and shall possess general knowledge of the problems relating to geologic seismic hazards and building safety. The members of the committee shall receive no compensation for their services, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.

SEC. 11. Chapter 9 (commencing with Section 2710) is added to Division 2 of the Public Resources Code, to read:

CHAPTER 9. SURFACE MINING AND RECLAMATION ACT OF 1975

Article 1. General Provisions

2710. This chapter shall be known and may be cited as the Surface Mining and Reclamation Act of 1975.

2711. (a) The Legislature hereby finds and declares that the extraction of minerals is essential to the continued economic well-being of the state and to the needs of the society, and that the reclamation of mined lands is necessary to prevent or minimize adverse effects on the environment and to protect the public health and safety.

(b) The Legislature further finds that the reclamation of mined lands as provided in this chapter will permit the continued mining of minerals and will provide for the protection and subsequent

beneficial use of the mined and reclaimed land.

(c) The Legislature further finds that surface mining takes place in diverse areas where the geologic, topographic, climatic, biological, and social conditions are significantly different and that reclamation operations and the specifications therefor may vary accordingly.

2712. It is the intent of the Legislature to create and maintain an effective and comprehensive surface mining and reclamation policy with regulation of surface mining operations so as to assure that:

(a) Adverse environmental effects are prevented or minimized and that mined lands are reclaimed to a usable condition which is readily adaptable for alternative land uses.

(b) The production and conservation of minerals are encouraged, while giving consideration to values relating to recreation, watershed, wildlife, range and forage, and aesthetic enjoyment.

(c) Residual hazards to the public health and safety are eliminated.

2713. It is not the intent of the Legislature by the enactment of this chapter to take private property for public use without payment of just compensation in violation of the California and United States Constitutions.

2714. The provisions of this chapter shall not apply to any of the following activities:

(a) Excavations or grading conducted for farming or onsite construction or for the purpose of restoring land following a flood or natural disaster.

(b) Prospecting for, or the extraction of, minerals for commercial purposes and the removal of overburden in total amounts of less than 1,000 cubic yards in any one location of one acre or less.

(c) Surface mining operations that are required by federal law in order to protect a mining claim, if such operations are conducted solely for that purpose.

(d) Such other surface mining operations which the board determines to be of an infrequent nature and which involve only minor surface disturbances.

2715. No provision of this chapter or any ruling, requirement, or policy of the board is a limitation on any of the following:

(a) On the police power of any city or county or on the power of any city or county to declare, prohibit, and abate nuisances.

(b) On the power of the Attorney General, at the request of the board, or upon his own motion, to bring an action in the name of the people of the State of California to enjoin any pollution or nuisance.

(c) On the power of any state agency in the enforcement or administration of any provision of law which it is specifically authorized or required to enforce or administer.

(d) On the right of any person to maintain at any time any appropriate action for relief against any private nuisance as defined in Part 3 (commencing with Section 3479) of Division 4 of the Civil Code or for any other private relief.

(e) On the power of any city or county to adopt policies,

standards, or regulations imposing additional requirements on any person if the requirements do not prevent the person from complying with the provisions of this chapter.

(f) On the power of any city or county to regulate the use of buildings, structures, and land as between industry, business, residents, open space (including agriculture, recreation, the enjoyment of scenic beauty, and the use of natural resources), and other purposes.

2716. Any person may commence an action on his own behalf against the board or the State Geologist for a writ of mandate pursuant to Chapter 2 (commencing with Section 1084) of Title 1 of Part 3 of the Code of Civil Procedure to compel the board or the State Geologist to carry out any duty imposed upon them pursuant to the provisions of this chapter.

2717. The board shall submit to the Legislature on December 1st of each year a report on the actions taken pursuant to this chapter during the preceding fiscal year. Such report shall include a statement of the actions, including legislative recommendations, which are necessary to carry out more completely the purposes and requirements of this chapter.

2718. If any provision of this chapter or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Article 2. Definitions

2725. Unless the context otherwise requires, the definitions set forth in this article shall govern the construction of this chapter.

2726. "Area of regional significance" means an area designated by the board pursuant to Section 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in a particular region of the state within which the minerals are located and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local significance.

2727. "Area of statewide significance" means an area designated by the board pursuant to Section 2790 which is known to contain a deposit of minerals, the extraction of which is judged to be of prime importance in meeting future needs for minerals in the state and which, if prematurely developed for alternate incompatible land uses, could result in the permanent loss of minerals that are of more than local or regional significance.

2728. "Lead agency" means the city or county which has the principal responsibility for approving a surface mining operation pursuant to this chapter.

2729. "Mined lands" includes the surface, subsurface, and ground

water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located.

2730. "Mining waste" includes the residual of soil, rock, mineral, liquid, vegetation, equipment, machines, tools, or other materials or property directly resulting from, or displaced by, surface mining operations.

2731. "Operator" means any person who is engaged in surface mining operations, himself, or who contracts with others to conduct operations on his behalf, except a person who is engaged in surface mining operations as an employee with wages as his sole compensation.

2732. "Overburden" means soil, rock, or other materials that lie above a natural mineral deposit or in between mineral deposits, before or after their removal by surface mining operations.

2732.5. "Permit" means any authorization from, or approval by, a lead agency, the absence of which would preclude surface mining operations.

2733. "Reclamation" means the combined process of land treatment that minimizes water degradation, air pollution, damage to aquatic or wildlife habitat, flooding, erosion, and other adverse effects from surface mining operations, including adverse surface effects incidental to underground mines, so that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and create no danger to public health or safety. The process may extend to affected lands surrounding mined lands, and may require backfilling, grading, resoiling, revegetation, soil compaction, stabilization, or other measures.

2734. "State policy" means the state policy for the reclamation of mined lands adopted pursuant to Section 2755.

2735. "Surface mining operations" means all, or any part of, the process involved in the mining of minerals on mined lands by removing overburden and mining directly from the mineral deposits, open-pit mining of minerals naturally exposed, mining by the auger method, dredging and quarrying, or surface work incident to an underground mine. Surface mining operations shall include, but are not limited to:

(a) Inplace distillation or retorting or leaching.
(b) The production and disposal of mining waste.
(c) Prospecting and exploratory activities.

Article 3. District Committees

2740. In carrying out the provisions of this chapter, the board may establish districts and appoint one or more district technical advisory committees to advise the board. In establishing districts for these

committees, the board shall take into account physical characteristics, including, but not limited to, climate, topography, geology, type of overburden, and principal mineral commodities. Members of the committees shall be selected and appointed on the basis of their professional qualifications and training in mineral resource conservation, development and utilization, land use planning, mineral economics, or the reclamation of mined lands.

2741. The members of the committee shall receive no compensation for their services, but shall be entitled to their actual and necessary expenses incurred in the performance of their duties.

Article 4. State Policy for the Reclamation of Mined Lands

2755. On or before January 1, 1977, the board shall adopt state policy for the reclamation of mined lands in accordance with the general provisions set forth in Article 1 (commencing with Section 2710) of this chapter and pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

2756. State policy shall apply to the conduct of surface mining operations and shall include, but shall not be limited to, measures to be employed by local governments in specifying grading, backfilling, resoiling, revegetation, soil compaction, and other reclamation requirements, and for soil erosion control, water quality and watershed control, waste disposal, and flood control.

2757. The state policy adopted by the board shall be based upon a study of the factors that significantly affect the present and future condition of mined lands, and shall be used as standards by local governments in preparing specific and general plans, including the conservation and land use elements of the general plan, and zoning ordinances. The state policy shall not include aspects of regulating surface mining operations which are solely of local concern, and not of statewide or regional concern, as determined by the board, such as, but not limited to, hours of operation, noise, dust, fencing, and purely aesthetic considerations.

2758. Such policy shall include objectives and criteria for all of the following:

(a) Determining the lead agency pursuant to the provisions of Section 2771.

(b) The orderly evaluation of reclamation plans.

(c) Determining the circumstances, if any, under which the approval of a proposed surface mining operation by a lead agency need not be conditioned on a guarantee assuring reclamation of the mined lands.

2759. The state policy shall be continuously reviewed and may be revised. During the formulation or revision of such policy, the board shall consult with, and carefully evaluate the recommendations of, the State Geologist, any district technical advisory committees, concerned federal, state, and local agencies, educational institutions,

civic and public interest organizations, and private organizations and individuals.

2760. The board shall not adopt or revise the state policy unless a public hearing is first held respecting their adoption or revision. At least 30 days prior to such hearing, the board shall give notice of the hearing by publication pursuant to Section 6061 of the Government Code.

2761. (a) On or before January 1, 1977, and, as a minimum, after the completion of each decennial census, the Office of Planning and Research shall identify urban and urbanizing portions of the following areas within the state subject to urban expansion or other irreversible land uses:

(1) Standard metropolitan statistical areas and such other areas for which information is readily available.

(2) Other areas as may be requested from time to time by the board.

(b) In accordance with a time schedule, and based upon guidelines adopted by the board, the State Geologist shall classify, on the basis solely of geologic factors, and without regard to existing land use and land ownership, the areas identified by the Office of Planning and Research, and such other areas as may be specified by the board, as one of the following:

(1) Areas containing little or no mineral deposits.

(2) Areas containing significant mineral deposits.

(3) Areas containing mineral deposits, the significance of which requires further evaluation.

(c) As it is completed by county, the State Geologist shall transmit such information to the board for incorporation into the state policy and for transmittal to lead agencies.

2762. (a) Within 12 months of receiving the mineral information described in Section 2761, and also within 12 months of the designation of an area of statewide or regional significance within its jurisdiction, every lead agency shall, in accordance with state policy, establish mineral resource management policies to be incorporated in its general plan which will:

(1) Recognize mineral information classified by the State Geologist and transmitted by the board.

(2) Assist in the management of land use which affect areas of statewide and regional significance.

(3) Emphasize the conservation and development of identified mineral deposits.

(b) Every lead agency shall submit proposed mineral resource management policies to the board for review and comment prior to adoption.

(c) Any subsequent amendment of the mineral resource management policy previously reviewed by the board shall also require review and comment by the board.

(d) Prior to permitting a use which would threaten the potential to extract minerals in an area classified by the State Geologist as an

area described in paragraph (3) of subdivision (b) of Section 2761, the lead agency may cause to be prepared an evaluation of the area in order to ascertain the significance of the mineral deposit located therein. The results of such evaluation shall be transmitted to the State Geologist and the board.

Article 5. Reclamation Plans and the Conduct of Surface Mining Operations

2770. Except as specified in Section 2776, no person shall conduct surface mining operations unless a permit is obtained from, and a reclamation plan has been submitted to, and approved by, the lead agency for such operation pursuant to this article.

2771. Whenever a proposed surface mining operation is within the jurisdiction of two or more public agencies, is a permitted use within the agencies, and is not separated by a natural or manmade barrier coinciding with the boundary of the agencies, the evaluation of the proposed operation shall be made by the lead agency in accordance with the procedures adopted by the lead agency pursuant to Section 2774. In the event that a dispute arises as to which is the lead agency, any public agency which is a party to the dispute may submit the matter to the board; and the board shall designate the lead agency, giving due consideration to the capability of such agency to fulfill adequately the requirements of this chapter.

2772. The reclamation plan shall be filed with the lead agency on a form provided by the lead agency, by any person who owns, leases, or otherwise controls or operates on all, or any portion of any, mined lands, and who plans to conduct surface mining operations thereon. The reclamation plan shall include the following information and documents:

(a) The name and address of the operator and the names and addresses of any persons designated by him as his agents for the service of process.

(b) The anticipated quantity and type of minerals for which the surface mining operation is to be conducted.

(c) The proposed dates for the initiation and termination of such operation.

(d) The maximum anticipated depth of the surface mining operation.

(e) The size and legal description of the lands that will be affected by such operation, a map that includes the boundaries and topographic details of such lands, a description of the general geology of the area, a detailed description of the geology of the area in which surface mining is to be conducted, the location of all streams, roads, railroads, and utility facilities within, or adjacent to, such lands, the location of all proposed access roads to be constructed in conducting such operation, and the names and addresses of the owners of all surface and mineral interests of such lands.

(f) A description of and plan for the type of surface mining to be

employed and a time schedule that will provide for the completion of surface mining on each segment of the mined lands so that reclamation can be initiated at the earliest possible time on those portions of the mined lands that will not be subject to further disturbance by the surface mining operation.

(g) A description of the proposed use or potential uses of the land after reclamation and evidence that all owners of a possessory interest in the land have been notified of the proposed use or potential uses.

(h) A description of the manner in which reclamation, adequate for the proposed use or potential uses will be accomplished, including: (1) a description of the manner in which contaminants will be controlled, and mining waste will be disposed; and (2) a description of the manner in which rehabilitation of affected streambed channels and streambanks to a condition minimizing erosion and sedimentation will occur.

(i) An assessment of the effect of implementation of the reclamation plan on future mining in the area.

(j) A statement that the person submitting the plan accepts responsibility for reclaiming the mined lands in accordance with the reclamation plan.

(k) Any other information which the lead agency may require by ordinance.

2773. The reclamation plan shall be applicable to a specific piece of property or properties, and shall be based upon the character of the surrounding area and such characteristics of the property as type of overburden, soil stability, topography, geology, climate, stream characteristics, and principal mineral commodities.

2774. Every lead agency shall adopt ordinances establishing procedures for the review and approval of reclamation plans and the issuance of a permit to conduct surface mining operations. Such procedures shall require at least one public hearing and periodic inspections of surface mining operations, and may include provisions for liens, surety bonds, or other security to guarantee reclamation in accordance with the reclamation plan. Such ordinances shall be continuously reviewed and revised, as necessary, in order to ensure that such ordinances are in accordance with state policy. Lead agencies shall notify the State Geologist of the filing of an application for a permit to conduct surface mining operations.

On request of a lead agency, the State Geologist shall furnish technical assistance to assist in the review of reclamation plans.

2775. (a) An applicant whose request for a permit to conduct surface mining operations in an area of statewide or regional significance has been denied by a lead agency, or any person who is aggrieved by the granting of a permit to conduct surface mining operations in an area of statewide or regional significance, may, within 15 days of exhausting his rights to appeal in accordance with the procedures of the lead agency, appeal to the board.

(b) The board may, by regulation, establish procedures for

declining to hear appeals that it determines raise no substantial issues.

(c) Appeals that the board does not decline to hear shall be scheduled and heard at a public hearing held within the jurisdiction of the lead agency which processed the original application within 30 days of the filing of the appeal, or such longer period as may be mutually agreed upon by the board and the person filing the appeal. In any such action, the board shall not exercise its independent judgment on the evidence but shall only determine whether the decision of the lead agency is supported by substantial evidence in the light of the whole record. If the board determines the decision of the lead agency is not supported by substantial evidence in the light of the whole record it shall remand the appeal to the lead agency and the lead agency shall schedule a public hearing to reconsider its action.

2776. No person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall be required to secure a permit pursuant to the provisions of this chapter as long as such vested right continues; provided, however, that no substantial changes may be made in any such operation except in accordance with the provisions of this chapter. A person shall be deemed to have such vested rights if, prior to January 1, 1976, he has, in good faith and in reliance upon a permit or other authorization, if such permit or other authorization was required, diligently commenced surface mining operations and incurred substantial liabilities for work and materials necessary therefor. Expenses incurred in obtaining the enactment of an ordinance in relation to a particular operation or the issuance of a permit shall not be deemed liabilities for work or materials.

A person who has obtained a vested right to conduct surface mining operations prior to January 1, 1976, shall submit to the lead agency and receive, within a reasonable period of time, approval of a reclamation plan for operations to be conducted after January 1, 1976, unless a reclamation plan was approved by the lead agency prior to January 1, 1976 and the person submitting the plan has accepted responsibility for reclaiming the mined lands in accordance with the reclamation plan.

Nothing in this chapter shall be construed as requiring the filing of a reclamation plan for, or the reclamation of, mined lands on which surface mining operations were conducted prior to January 1, 1976.

2777. Amendments to an approved reclamation plan may be submitted detailing proposed changes from the original plan. Substantial deviations from the original plan shall not be undertaken until such amendment has been filed with, and approved by, the lead agency.

2778. Reclamation plans, reports, applications, and other documents submitted pursuant to this chapter are public records, unless it can be demonstrated to the satisfaction of the lead agency

that the release of such information, or part thereof, would reveal production, reserves, or rate of depletion entitled to protection as proprietary information. The lead agency shall identify such proprietary information as a separate part of the application. Proprietary information shall be made available only to the State Geologist and to persons authorized in writing by the operator and by the owner.

A copy of all reclamation plans, reports, applications, and other documents submitted pursuant to this chapter shall be furnished to the State Geologist by lead agencies on request.

2779. Whenever one operator succeeds to the interest of another in any incompleted surface mining operation by sale, assignment, transfer, conveyance, exchange, or other means, the successor shall be bound by the provisions of the approved reclamation plan and the provisions of this chapter.

Article 6. Areas of Statewide or Regional Significance

2790. After receipt of mineral information from the State Geologist pursuant to subdivision (c) of Section 2761, the board may by regulation adopted after a public hearing designate specific geographic areas of the state as areas of statewide or regional significance and specify the boundaries thereof. Such designation shall be included as a part of the state policy and shall indicate the reason for which the particular area designated is of significance to the state or region, the adverse effects that might result from premature development of incompatible land uses, the advantages that might be achieved from extraction of the minerals of the area, and the specific goals and policies to protect against the premature incompatible development of the area.

2791. The board shall seek the recommendations of concerned federal, state, and local agencies, educational institutions, civic and public interest organizations, and private organizations and individuals in the identification of areas of statewide and regional significance.

2792. Neither the designation of an area of regional or statewide significance nor the adoption of any regulations for such an area shall in any way limit or modify the rights of any person to complete any development that has been authorized pursuant to Part 2 (commencing with Section 11000) of Division 4 of the Business and Professions Code, pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or by a building permit or other authorization to commence development, upon which such person relies and has changed his position to his substantial detriment, and, which permit or authorization was issued prior to the designation of such area pursuant to Section 2790. If a developer has by his actions taken in reliance upon prior regulations obtained vested or other legal rights that in law would have prevented a local public agency from

changing such regulations in a way adverse to his interests, nothing in this chapter authorizes any governmental agency to abridge those rights.

2793. The board may, by regulation adopted after a public hearing, terminate, partially or wholly, the designation of any area of statewide or regional significance on a finding that the direct involvement of the board is no longer required.

SEC. 12. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1132

An act to amend Section 653h of the Penal Code, relating to sound recordings.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 653h of the Penal Code is amended to read:

653h. (a) Every person is guilty of a public offense punishable by imprisonment in the state prison for a term not to exceed one year and a day, or by imprisonment in the county jail, not to exceed one year, or by a fine not to exceed twenty-five thousand dollars ($25,000), or by both such imprisonment and fine, who:

(1) Knowingly and willfully transfers or causes to be transferred any sounds that have been recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, with intent to sell or cause to be sold, or to use or cause to be used for profit through public performance, such article on which such sounds are so transferred, without the consent of the owner.

(2) Transports for monetary or like consideration within this state or causes to be transported within this state any such article with the knowledge that the sounds thereon have been so transferred without the consent of the owner.

(b) Any person who has been convicted of a violation of subdivision (a) shall, upon a subsequent conviction, be imprisoned in state prison for a period not exceeding two years, or by a fine not exceeding fifty thousand dollars ($50,000), or by both such fine and imprisonment.

(c) Every person who sells or causes to be sold any such article with knowledge that the sounds thereon have been so transferred

without the consent of the owner is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not to exceed five thousand dollars ($5,000), or by both such fine and imprisonment.

(d) As used in this section, "person" means any individual, partnership, partnership's member or employee, corporation, association or corporation or association employee, officer or director; "owner" means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film or other article used for reproducing recorded sounds on phonograph records, discs, tapes, films or other articles on which sound is or can be recorded, and from which the transferred recorded sounds are directly or indirectly derived; and "fixation of sounds" means the master recording from which copies can be made of the series of sounds constituting the sound recording.

(e) This section shall neither enlarge nor diminish the right of parties in private litigation.

(f) This section does not apply to any person engaged in radio or television broadcasting who transfers, or causes to be transferred, any such sounds (other than from the sound track of a motion picture) intended for, or in connection with broadcast transmission or related uses, or for archival purposes.

(g) This section applies only to such articles that were initially fixed prior to February 15, 1972.

CHAPTER 1133

An act to amend Section 13201 of, and to add Sections 13201.5 and 13352.5 to, the Vehicle Code, relating to offenses, and making an appropriation therefor.

[Became law without Governor's signature September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 13201 of the Vehicle Code is amended to read:

13201. A court may suspend the privilege of any person to operate a motor vehicle, for a period not exceeding six months, upon conviction of any of the following offenses:

(a) Failure of the driver of a vehicle involved in an accident to stop or otherwise comply with the provisions of Section 20002.

(b) Reckless driving proximately causing bodily injury to any person under Section 23104.

(c) Failure of the driver of a vehicle to stop at a railway grade crossing as required by Section 22452.

(d) Driving while addicted to the use, or under the influence of,

any drug under subdivision (a) or (c) of Section 23105.

SEC. 2. Section 13201.5 is added to the Vehicle Code, to read:

13201.5. (a) A court may suspend the privilege of any person to operate a motor vehicle, for a period not exceeding six months, upon conviction of driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug.

In the alternative, and in addition to the provisions of subdivision (c) of Section 23102 and the provisions of Section 23102.3, a court may refrain from suspending such privilege if the person convicted of such offense has consented to participate in, for at least one year and in a manner satisfactory to the court, a public or private program for the treatment of problem drinking or alcoholism which, regardless of how it is funded, meets standards established by the Office of Alcohol Program Management, which shall include, but need not be limited to, the following:

(1) Each program shall provide for close and regular supervision of the person, including face-to-face interviews at least once every other calendar week, regarding the person's progress in the program.

(2) The office shall set maximum fees to be charged for participation in the program and shall require that each program make provision for persons who cannot afford such fees in order to enable such persons to participate in such programs.

(3) Each program shall include a variety of treatment services for problem drinkers and alcoholics or shall have the capability of referring such persons to, and regularly and closely supervising such persons while in, appropriate treatment services for their problem drinking or alcoholism.

In utilizing any such program, the court shall require periodic reports concerning the performance of the person participating in a program and the immediate report of any failure of the person to comply with the program's rules and regulations. If, at any time while participating in the program, the person fails to comply with the rules and regulations of the program, the court, upon finding such fact, shall immediately suspend, or order suspension or revocation of, the privilege of such person to operate a motor vehicle for the period prescribed by law.

No person may be admitted into a program for the treatment of problem drinking or alcoholism pursuant to this section more than once.

The provisions of this section afford a rehabilitative program for problem drinkers or alcoholics that is in addition to any other program or procedure relating to treatment of drinking drivers established in the criminal justice system, and the provisions of this section shall not be construed to restrict or supersede such programs or procedures, nor to prevent the future establishment of similar programs or procedures.

Further, the provisions of this subdivision shall not be construed as requiring a court, upon a first conviction of a person for driving while

under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, to suspend the privilege of that person to operate a motor vehicle if the court finds that a program for the treatment of problem drinking or alcoholism is not appropriate for such a person and if such person has consented to participate in, and does participate in and successfully completes, a driver improvement program designated by the court, as provided in subdivision (c) of Section 23102.

(b) In order to determine which types of programs can most effectively provide for treatment of persons convicted of such offenses, this section shall be implemented during the period from January 1, 1976, through December 31, 1977, on a demonstration basis in four or fewer counties deemed most appropriate for that purpose by the office. The office shall approve several types of programs in such counties in order to prepare for effective implementation of this section statewide. This section shall be applicable in all counties commencing January 1, 1978.

SEC. 3. Section 13352.5 is added to the Vehicle Code, to read:

13352.5. (a) The department may not suspend or revoke, pursuant to subdivision (a), (c), or (e) of Section 13352 or any other provision of law, the privilege of any person to operate a motor vehicle upon a conviction or finding that the person was driving while under the influence of intoxicating liquor or under the combined influence of intoxicating liquor and any drug, if the court has certified to the department that such person has consented to participate for at least one year, and is participating, in a manner satisfactory to the court, in a public or private program for the treatment of problem drinking or alcoholism pursuant to the provisions of Section 13201.5 or, with respect to a first conviction of such offense, in a driver improvement program designated by the court, as provided in subdivision (c) of Section 23102.

(b) All abstracts of record showing such a conviction that are forwarded to the department pursuant to Section 1803 shall indicate whether the person convicted has consented to participate, and is participating, in such a program for the treatment of problem drinking or alcoholism or such a driver improvement program.

SEC. 4. The sum of thirty thousand dollars ($30,000) is hereby appropriated from the General Fund to the Office of Alcohol Program Management to be used for staff during the period from January 1, 1976, through June 30, 1977, for the effective implementation of the provisions of this act.

CHAPTER 1134

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

[Became law without Governor's signature September 28, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. The sum of ninety-seven thousand dollars ($97,000) is hereby appropriated from the General Fund to the Regents of the University of California for expenditure in the 1975–76 fiscal year for the State Data Program at the University of California, Berkeley.

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

California faces significant social problems, which already have disrupted the public peace, health and safety, and threaten to continue to do so. In order to more fully understand these problems and discover effective solutions for them, California needs the best possible information about its people, needs such information readily available for public usage and needs persons competent to utilize such information in the public interest. The State Data Program at the University of California is the best, if not the only, facility directly serving these needs. This appropriation is necessary to assure the continued uninterrupted operation thereof.

CHAPTER 1135

An act to amend Sections 34218, 34219, 34312, 34315, 34315.3, 34316, 34316.1, 34322.2, 34327, 34327.6, 34328, 34358, 34602, and 34605 of the Health and Safety Code, relating to housing.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 34218 of the Health and Safety Code is amended to read:

34218. Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code applies to any housing project constructed under this chapter.

SEC. 2. Section 34219 of the Health and Safety Code is amended to read:

34219. "Leased housing" includes, but is not limited to, low-rent

housing in private accommodations for which the federal government or a state public body extends assistance by (1) leasing from the owner at a higher rent than is charged to the tenant or (2) contracting with the owner to make monthly payments in addition to rent paid by the tenant.

SEC. 3. Section 34312 of the Health and Safety Code is amended to read:

34312. Within its area of operation, an authority may:

(a) Prepare, carry out, acquire, lease, and operate housing projects.

(b) Provide for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project.

(c) Provide leased housing to persons of low income.

(d) Provide financing for the construction or rehabilitation of residential structures.

(e) Provide counseling, referral, and advisory services to persons of low income in connection with the purchase, rental, occupancy, maintenance, or repair of housing.

SEC. 4. Section 34315 of the Health and Safety Code is amended to read:

34315. An authority may:

(a) Lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project and establish and revise the rents or charges for them.

(b) Own, hold, and improve real or personal property.

(c) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest in property.

(d) Acquire any real property by eminent domain.

(e) Sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest in it.

(f) Insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards.

(g) Lend upon the security of a deed of trust in connection with the sale of real property to persons of low income or the implementation of government housing and rehabilitation financing programs.

(h) Procure insurance or guarantees from the federal government or the California Housing Finance Agency of the payment of all or part of any debts, whether or not incurred by the authority, secured by mortgages on any property included in any of its housing projects.

SEC. 5. Section 34315.3 of the Health and Safety Code is amended to read:

34315.3. An authority may accept financial or other assistance from any public or private source, and expend any funds so received for the purposes of this chapter and the activities permitted to authorities by state law, including leased housing.

SEC. 6. Section 34316 of the Health and Safety Code is amended

to read:

34316. An authority may:

(a) Invest any money held in reserves or sinking funds, or any money not required for immediate disbursement, in property or securities in which commercial banks may legally invest money subject to their control.

(b) Purchase its bonds at a price not more than their principal amount and accrued interest; all bonds so purchased shall be canceled.

SEC. 7. Section 34316.1 of the Health and Safety Code is amended to read:

34316.1. The provisions of Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code shall apply to the deposit of funds of an authority. Where the term "treasurer" is used in such article, it shall mean "housing authority" or the official designated by it to act hereunder, and where the term "local agency" is used in such article, it shall mean "housing authority."

SEC. 8. Section 34322.2 of the Health and Safety Code is amended to read:

34322.2. Each authority shall adopt and promulgate regulations establishing a plan for selection of applicants to assure equal opportunity and nondiscrimination on grounds of race, color, or national origin. The plan shall include standards for eligibility, procedures for prompt notification of eligibility or disqualification, and procedures for maintaining a waiting list of eligible applicants for whom vacancies are not immediately available. Eligible applicants shall be offered available vacancies in order of application, subject to the following:

(a) Preference categories shall be established to give priority to persons displaced by public or private action.

(b) Priority shall be given within each preference category to families of veterans and servicemen.

(c) The authority may establish occupancy standards, offering available units only to families of appropriate size.

(d) The authority may further limit the offering of available units to families of appropriate qualifications in order to comply with state or federal law or regulations, or contractual agreements with governmental agencies pursuant to such law or regulations.

(e) An applicant may reject, or refuse to promptly occupy, suitable units at two different locations and still be entitled to the next available suitable unit.

Nothing in this section shall prevent an authority from suspending processing of applications of persons of low income unlikely to be offered units within two years, or requiring annual renewal of applications, or honoring its obligations to persons of low income determined to be qualified prior to January 1, 1976.

SEC. 9. Section 34327 of the Health and Safety Code is amended to read:

34327. An authority may:

(a) Borrow money or accept grants or other financial assistance from the federal government for or in aid of any housing project within its area of operation.

(b) Take over, lease, or manage any housing project or undertaking constructed or owned by the federal government.

(c) Borrow money or accept grants or other financial assistance from the state or any of its political subdivisions to assist in providing housing and housing services within its area of operation.

(d) For these purposes, comply with such conditions and enter into any mortgages, trust indentures, leases, or agreements necessary, convenient, or desirable.

It is the purpose and intent of this chapter to authorize every authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the federal government in the undertaking, construction, maintenance, or operation of any housing project by an authority and to secure the financial aid and cooperation of the state in providing housing and housing services within its area of operation.

SEC. 10. Section 34327.6 of the Health and Safety Code is amended to read:

34327.6. All funds of housing authorities not subject to audit by a federal agency shall be audited at least once each year at the expense of the housing authority by the State Department of Finance or, at the option of the housing authority, by a certified public accountant or a public accountant holding a valid permit issued by the State Board of Accountancy, and approved by the Director of Finance. If the audit is made by a certified public accountant, or a public accountant, a copy of the audit report, together with a final balance sheet and operations statement for the year for all authority funds, shall be filed for record purposes with the Department of Housing and Community Development and the Department of Finance. The authority shall prepare and file with the Department of Finance and the Department of Housing and Community Development a budget for the year for which the audit is taken with each audit prepared or submitted pursuant to this section.

SEC. 11. Section 34328 of the Health and Safety Code is amended to read:

34328. At least once a year, an authority shall file with the clerk of the respective city or county and with the Department of Housing and Community Development a report of its activities for the preceding year. An authority shall make either directly or through any national, regional or state housing association or organization of which it may be a member, recommendations with reference to additional legislation or other action which it deems necessary to carry out the purposes of this chapter, to the respective legislative bodies having jurisdiction thereof.

SEC. 12. Section 34358 of the Health and Safety Code is amended to read:

34358. In connection with the issuance of bonds or the incurring of obligations in acquiring, developing, or leasing real property and in order to secure the payment of the bonds or obligations, an authority has the powers conferred by Sections 34359 to 34365, inclusive.

SEC. 13. Section 34602 of the Health and Safety Code is amended to read:

34602. "Owner" means any nonprofit corporation, limited distribution mortgagor, mutual housing corporation, or cooperative or any legal entity or body which is (1) qualified for mortgage insurance or direct loans by the federal government or the California Housing Finance Agency in the financing of any housing program wherein owners' profits are controlled or eliminated by the terms of agreement with the federal government or the California Housing Finance Agency, or (2) qualified for housing assistance payments authorized by paragraph (2) of subsection (b) of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(b) (2)).

SEC. 14. Section 34605 of the Health and Safety Code is amended to read:

34605. "Housing facility" means any dwelling made available with financing provided through mortgage insurance, direct loan programs, or grants by the federal government or the California Housing Finance Agency or any dwelling which is constructed or substantially rehabilitated pursuant to a housing-assistance-payment contract authorized by paragraph (2) of subsection (b) of Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(b) (2)).

"Housing facility" includes management and maintenance space and other nondwelling space or facilities necessary for the operation of the housing facility.

CHAPTER 1136

An act to repeal and add Article 8 (commencing with Section 12350) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Article 8 (commencing with Section 12350) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code is repealed.

SEC. 2. Article 8 (commencing with Section 12350) is added to Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, to read·

Article 8. Relatives' Responsibility

12350. No relative shall be held legally liable to support or to contribute to the support of any applicant for or recipient of aid under this chapter. No relative shall be held liable to defray in whole or in part the cost of any medical care or hospital care or other service rendered to the recipient pursuant to any provision of this code if he is an applicant for or a recipient of aid under this chapter at the time such medical care or hospital care or other service is rendered.

Notwithstanding the provisions of Section 206 of the Civil Code, or Section 270c of the Penal Code, or any other provision of this code, no demand shall be made upon any relative to support or contribute toward the support of any applicant for or recipient of aid under this chapter. No county or city and county or officer or employee thereof shall threaten any such relative with any legal action against him by or in behalf of the county or city and county or with any penalty whatsoever.

CHAPTER 1137

An act to amend Sections 33417, 34290, 34312, 34315, 34802, 37922, 37922.1, 41057, 41133, 41135, and 41172 of, to amend the heading of Division 24 (commencing with Section 33000) of, to amend the heading of Article 4 (commencing with Section 34900) of Chapter 1 of Part 3 of Division 24 of, to add Sections 33011, 34328.1, and 41139 to, and to add Article 6 (commencing with Section 33080) to Chapter 1 of Part 1 of Division 24 of, the Health and Safety Code; and to amend Section 1476, of, and to repeal Sections 1477, 1478, and 1479 of, the Labor Code, relating to housing and community development.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. The heading of Division 24 (commencing with Section 33000) of the Health and Safety Code is amended to read:

DIVISION 24. COMMUNITY DEVELOPMENT AND HOUSING

SEC. 2. Section 33011 is added to the Health and Safety Code, to read:

33011. "Department" means the Department of Housing and Community Development.

SEC. 3. Article 6 (commencing with Section 33080) is added to

Chapter 1 of Part 1 of Division 24 of the Health and Safety Code, to read:

Article 6. Reporting Requirement

33080. Every agency shall file with the department, on the first day of October of each year, a complete report of its activities during the previous fiscal year, with recommendations for needed legislation to carry on properly a program of housing and community development in California.

SEC. 3.5. Section 34290 of the Health and Safety Code, as added by Chapter 611 of the Statutes of 1975, is amended to read:

34290. (a) As an alternative to the appointment of commissioners of the authority, the governing body of any county or city, at the time of the adoption of a resolution pursuant to Section 34240 of this chapter or at any time thereafter, may declare itself to be the commissioners of the authority, in which case, all the rights, powers, duties, privileges and immunities, vested by this chapter in the commissioners of an authority, except as otherwise provided in this article, shall be vested in the governing body.

(b) If the governing body of any county or city has declared itself to be the commissioners of the authority, the governing body shall also appoint two tenants of the authority as commissioners if the authority has tenants, or within one year after the authority first does have tenants. One tenant commissioner shall be over 62 years of age if the authority has tenants of such age. Tenant commissioners appointed pursuant to this subdivision shall serve, and their successors shall be appointed, as provided in Section 34272.

(c) As an alternative to appointment of tenants of the authority as commissioners of the authority pursuant to subdivision (b), if a housing commission is created as provided in Section 34291 and does not have more than seven commissioners, the governing body may make tenant appointments pursuant to subdivision (b) to the commission rather than to the authority.

If a housing commission has more than seven members, the governing body may, by ordinance, reorganize an existing housing commission by dissolving and appointing the housing commission in order to reduce the commission to seven or fewer members so that the purposes of this subdivision may be carried out.

(d) A tenant commissioner shall have all the rights, powers, duties, privileges, and immunities of any other commissioner.

SEC. 4. Section 33417 of the Health and Safety Code is amended to read:

33417. Plans prepared pursuant to Section 33411 shall be provided to the Department of Housing and Community Development upon request to be reviewed by the department.

SEC. 4.5. Section 34312 of the Health and Safety Code is amended to read:

34312. Within its area of operation, an authority may:

(a) Prepare, carry out, acquire, lease, and operate housing projects.

(b) Provide for the construction, reconstruction, improvement, alteration, or repair of all or part of any housing project.

(c) Provide leased housing to persons of low income.

(d) Provide financing for the construction or rehabilitation of residential structures for persons of low income if certified as a qualified mortgage lender, either generally or for separate financing activities, pursuant to Section 41057.

(e) Provide counseling, referral, and advisory services to persons of low income in connection with the purchase, rental, occupancy, maintenance, or repair of housing.

SEC. 4.7. Section 34315 of the Health and Safety Code is amended to read:

34315. An authority may:

(a) Lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project and establish and revise the rents or charges for them.

(b) Own, hold, and improve real or personal property.

(c) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest in property.

(d) Acquire any real property by eminent domain.

(e) Sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest in it.

(f) Insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards

(g) Lend upon the security of a deed of trust in connection with the sale of real property to persons of low income or the implementation of government housing and rehabilitation financing programs for persons of low income, if certified as a qualified mortgage lender pursuant to Section 41057.

(h) Procure insurance or guarantees from the federal government or the California Housing Finance Agency of the payment of all or part of any debts, whether or not incurred by the authority, secured by mortgages on any property included in any of its housing projects.

SEC. 5. Section 34328.1 is added to the Health and Safety Code, to read:

34328.1. Every housing authority shall file on the first day of October of each year with the Department of Housing and Community Development a complete report of its activities during the previous fiscal year, with recommendations for needed legislation to carry on properly a program of housing and community development in California.

SEC. 6. Section 34802 of the Health and Safety Code is amended to read:

34802. "Commission" means the Commission of Housing and Community Development.

SEC. 7. The heading of Article 4 (commencing with Section 34900) of Chapter 1 of Part 3 of Division 24 of the Health and Safety Code is amended to read:

Article 4. Powers and Duties of the Commission

SEC. 7.3. Section 37922 of the Health and Safety Code, as amended by Chapter 558 of the Statutes of 1975, is amended to read:

37922. Prior to the issuance of any bonds or bond anticipation notes of the local agency for residential rehabilitation, the local agency shall by ordinance or resolution adopt a comprehensive residential rehabilitation financing program which shall include, but is not limited to, the following items:

(a) Criteria for selection of residential rehabilitation areas by the local agency which shall include findings by the local agency that:

(1) There are a substantial number of deteriorating structures in the area which do not conform to community standards for decent, safe, sanitary housing.

(2) Financial assistance from the local agency for residential rehabilitation is necessary to arrest the deterioration of the area.

(3) Financing of residential rehabilitation in the area is economically feasible.

However, these findings are not required when the residential rehabilitation area is a redevelopment project area that the provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)) apply to.

(b) Procedures for selection of residential rehabilitation areas by the local agency which shall include:

(1) Provisions for citizen participation in selection of residential rehabilitation areas.

(2) Provisions for a public hearing by the governing body of the local agency prior to selection of any particular residential rehabilitation area by the local agency.

(c) A commitment that, subject to budgeting and fiscal limitations of the local agency, rehabilitation standards will be enforced in 95 percent of the residences in each residential rehabilitation area.

(d) Guidelines for financing residential rehabilitation which shall be subject to the following limitations:

(1) Outstanding loans on the property to be rehabilitated, by a profit sponsor, including the amount of the loans for rehabilitation, shall not exceed 80 percent of the anticipated after-rehabilitation value of the property to be rehabilitated, except that the local agency may authorize loans of up to 95 percent of the anticipated after-rehabilitation value of the property if such loans are made for the purpose of rehabilitating the property for residential purposes, there is demonstrated need for such higher limit, and there is a high probability that the value of the property will not be impaired during the term of the loan. Nonprofit sponsors shall qualify for loan percentage requirements specified in Section 41338 if the

development receives governmental rental assistance.

(2) The maximum repayment period for residential rehabilitation loans shall be 40 years or four-fifths of the economic life of the property, whichever is less.

(3) The maximum amount loaned for rehabilitation for each dwelling unit and for each commercial unit which is, or is part of, a "residence" within the meaning of that term as defined in this part, shall be thirty thousand dollars ($30,000).

(4) No more than 20 percent of any loan for residential rehabilitation shall be used for residential rehabilitation which is not required under the local agency's rehabilitation standards except that in the case of owner-occupied one- to four-dwelling-unit properties, up to 40 percent of the loan for residential rehabilitation may be used for residential rehabilitation not required under the local agency's rehabilitation standards.

(5) Loans shall not be made for the purpose of refinancing the outstanding indebtedness of the participating party with respect to property which is subject to residential rehabilitation, unless the cost, including in such costs any amounts previously expended for residential rehabilitation of that property by a participating party, within a residential rehabilitation area or a redevelopment project area established at the time of such expenditure, of meeting the rehabilitation standards is at least 20 percent of the principal amount of the loan.

(e) A requirement that a plan for public improvements necessary to successful rehabilitation of the residential rehabilitation area be developed, with citizen participation, for each residential rehabilitation area and that the plan for public improvements be adopted by the local agency prior to the financing of residential rehabilitation in any residential rehabilitation area, together with a commitment that, subject to budgetary and fiscal limitations, such plan will be carried out by the local agency.

SEC. 7.5. Section 37922.1 of the Health and Safety Code, as added by Chapter 558 of the Statutes of 1975, is amended to read:

37922.1. (a) A comprehensive residential rehabilitation financing program may authorize residential rehabilitation outside residential rehabilitation areas of residences which meet the following qualifications:

(1) The residence is located in an area determined by the legislative body to be a stable and viable residential neighborhood.

(2) Rehabilitation of the residence is determined by the legislative body to be economically feasible.

(3) Dwelling units rehabilitated within the residence with financing under this part are committed for the period during which the loan is outstanding for occupancy by persons and families of low or moderate income, as defined in Section 41056, pursuant to a governmental assistance program.

(b) Guidelines for financing residential rehabilitation of residences specified in subdivision (a) shall be included in the

comprehensive residential rehabilitation financing program if financing of such rehabilitation is authorized pursuant to this section. Such guidelines shall be subject to the limitations prescribed by subdivision (d) of Section 37922. The maximum repayment period for residential rehabilitation loans for residences described in subdivision (a) shall be 40 years or four-fifths of the economic life of the property or the duration of the governmental rent assistance, whichever is less.

For purposes of this part, "governmental rental assistance" means any financial assistance which is paid to the occupant of rental housing rehabilitated pursuant to this part for housing costs or which reduces such occupants housing costs, including, but not limited to, the abatement of property taxes for nonprofit housing for the elderly or other eligible types of housing, as authorized by law.

(c) With respect to rehabilitation of residences specified in subdivision (a), the comprehensive residential rehabilitation financing program shall provide for notice to affected owners and tenants of the proposed rehabilitation and for an opportunity for participation by them in the designation of dwelling units to be rehabilitated and in the planning of the proposed rehabilitation.

SEC. 7.7. Section 41057 of the Health and Safety Code is amended to read:

41057. "Qualified mortgage lender" means a mortgage lender certified by the agency, pursuant to rules and regulations thereof, to do business with the agency or a housing authority certified by the agency as capable of financing the construction or rehabilitation of residential structures. Such a mortgage lender may be a bank or trust company, mortgage banker, federal- or state-chartered savings and loan association, service corporation, or other financial institution or governmental agency which is deemed capable of providing service or otherwise aiding in the financing of construction loans and mortgage loans, and nothing in any other provisions of state law shall prevent such a lender or governmental agency from serving as a qualified mortgage lender under this division. A "qualified mortgage lender" that is determined by the agency to have violated state law of the terms of any agreement with the agency shall be promptly decertified.

SEC. 8. Section 41133 of the Health and Safety Code is amended to read:

41133. The department shall assist and advise the Office of Planning and Research on the performance of functions specified in Section 65040.3 of the Government Code.

SEC. 9. Section 41135 of the Health and Safety Code is amended to read:

41135. The department shall adopt guidelines relating to relocation assistance by public entities, as defined in Section 7260 of the Government Code, pursuant to the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. The department may provide consulting and

technical assistance to such public entities in drafting and amending rules and regulations relating to relocation assistance pursuant to subdivision (e) of Section 7268 of the Government Code. The department may require such public entities to reimburse the department for such assistance as the department provides.

The department shall, at intervals of two years, review relocation plans prepared pursuant to Section 33411, and the progress in implementation of the plans.

SEC. 10. Section 41139 is added to the Health and Safety Code, to read:

41139. The department may:

(a) Make investigations of housing and community development in California.

(b) Call conferences of representatives of all levels of government, industry, and private groups, to discuss housing and community development problems of California.

(c) Investigate and report upon substandard housing and the problems resulting therefrom and the work being done to remedy such conditions.

(d) Study the operation and enforcement of housing, building, zoning, and subdivision laws and regulations, of housing finance, taxes, redevelopment programs and public housing projects, as related to housing and community development.

(e) Examine the records of housing authorities and redevelopment agencies, and secure from them reports and copies of their records at any time.

(f) Promote the formation of organizations intended to increase the supply of adequate housing and the proper living environment for all the people of the state.

SEC. 11. Section 41172 of the Health and Safety Code is amended to read:

41172. The department may provide technical assistance and aid to governmental agencies, nonprofit corporations, and housing sponsors for the purpose of providing the benefits of assisted housing to very low income households and persons and families of low or moderate income which are handicapped or in which the head of household has been previously confined to institutional care.

SEC. 12. Section 1476 of the Labor Code is amended to read:

1476. The department may examine the records of the various city, city and county, or county departments charged with the enforcement of building regulations and secure from them reports and copies of their records at any time.

SEC. 13. Section 1477 of the Labor Code is repealed.

SEC. 14. Section 1478 of the Labor Code is repealed.

SEC. 15. Section 1479 of the Labor Code is repealed.

SEC. 16. Section 8 of this act shall become operative only if Assembly Bill 551 of the 1975–76 Regular Session is chaptered.

CHAPTER 1138

An act to amend Section 14150.5 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 29, 1975. Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 14150.5 of the Welfare and Institutions Code is amended to read:

14150.5. Notwithstanding the provisions of Section 14150, commencing with the 1974–75 fiscal year, no county shall be required to pay as the county share toward the cost of care and administration in any fiscal year under Section 14150 an amount which would exceed the amount produced by a property tax rate of sixty cents ($0.60) per one hundred dollars ($100) of modified assessed value of property in the county for the 1974–75 fiscal year and for each subsequent fiscal year. The term "modified assessed value" means the total of (a) the taxable assessed value of state-assessed property and the exempt assessed value of partially or totally exempt state-assessed property on which tax losses are reimbursed by the state and (b) the product of the factor prescribed in Section 17261 of the Education Code times the sum of (1) the taxable assessed value of county-assessed property and (2) the exempt assessed value of partially or totally exempt county-assessed property on which tax losses are reimbursed by the state.

Any relief to the county under this section shall be first used to reduce the amount owing by any county of the 15th class to the state under the Medi-Cal program.

CHAPTER 1139

An act to amend Section 14030 of, and to add Article 6 (commencing with Section 14080) to Chapter 1 of Part 5 of Division 3 of Title 2 of, the Government Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 14030 of the Government Code is amended to read:

14030. The powers and duties of the department shall include, but not be limited to, the following activities:

(a) Coordinating and developing, in cooperation with local and

regional entities, comprehensive balanced transportation planning and policy for the movement of people and goods within the state.

(b) Coordinating and assisting, upon request of, the various public and private transportation entities in strengthening their development and operation of balanced integrated mass transportation, highway, aviation, maritime, railroad, and other transportation facilities and services in support of statewide and regional goals.

(c) Developing, in cooperation with local and regional transportation entities, the full potential of all resources and opportunities which are now, and may become, available to the state and to regional and local agencies for meeting California's transportation needs, as provided by statute, tempered by consideration of other relevant factors, including social, environmental, and community planning.

(d) Planning, designing, constructing, operating, and maintaining those transportation systems which the Legislature has made, or may make, the responsibility of the department; provided that the department is not authorized to assume the functions of project planning, designing, constructing, operating, or maintaining maritime or aviation facilities without express prior approval of the Legislature with the exception of those aviation functions which have been designated for the department in the Public Utilities Code

(e) Coordinating and developing transportation research projects of statewide interest.

(f) Exercising such other functions, powers, and duties as are or may be provided for by law.

SEC. 2. Article 6 (commencing with Section 14080) is added to Chapter 1 of Part 5 of Division 3 of Title 2 of the Government Code, to read:

Article 6. Exclusive Mass Transit Guideway Systems

14080. For purposes of this article:

(a) "Public entity" has the same meaning as defined in Section 811.2 of the Government Code.

(b) "State funds" means any nonfederal funds which are derived from any of the following financial sources: the State Transportation Fund, tolls on the use of state-owned transportation facilities, and bond proceeds where the payment of the bonds is secured by any of the other financial sources specified in this subdivision.

14081. (a) When the governing body of any public entity proposes to commence project planning, development, improvement, or acquisition for exclusive public mass transit guideways and their related fixed facilities, the governing body may enter into an agreement to have the department assist the public entity with such work by providing to it those services mutually agreed to by the governing body and the director. These services

may include, but are not limited to, the employment of the department's employees, facilities, equipment, and materials for such purposes as project planning and design; research and materials testing; plans, specifications, and estimates; acquisition of rights-of-way and relocation assistance; project contract administration and construction inspection; and overall project management.

(b) The governing body and the director may also enter into agreement for the department to assist the public entity in the performance of any other mutually agreed-upon services in connection with the public entity's guideway transit responsibilities.

14081.5. The director shall not enter into an agreement referred to in Section 14081 if, in the director's judgment, the proposed agreement cannot be carried out in a manner consistent with financially and managerially sound public administration practices.

14082. The department may secure the services of consultants to provide expert assistance to the department in performing any of the agreed-upon services referred to in Section 14081 when the complete expertise necessary is not fully available within the department.

14082.5. In any agreement made pursuant to Section 14081, the governing body shall retain final authority to decide those matters for which it is responsible by law pertaining to the planning, design, construction, and operation of the guideway system. The department shall perform such services agreed upon in accordance with the laws and regulations that are applicable to the public entity.

14083. Any agreement made pursuant to Section 14081 shall provide that the department shall be fully reimbursed by the governing body for all costs incurred by the department in performing services pursuant to the agreement. The amount of the reimbursement shall be negotiated and agreed to between the governing body and the department in advance of the department performing the services. However, whenever funds are made available to the department with an authorization to expend the funds for the department's performance of all or part of the agreed-upon services, the services so financed shall be performed by the department without reimbursement. Any state funds so used shall be considered as part of the financing needed by the governing body from state and local revenue sources to meet its matching requirements for federal funding.

14083.5. Any funds received by the department from the governing body pursuant to an agreement made pursuant to Section 14081 shall be deposited in the State Treasury to the credit of the state account which the department designates. The department shall use the funds for the purposes referred to in Section 14081 in accordance with the applicable laws and regulations, and with the contracts, plans, specifications, and terms agreed upon.

14084. If at any time, in carrying out any agreement made pursuant to Section 14081, the required payment of reimbursements becomes a matter in dispute which cannot be resolved by the

governing body and the director, it shall be brought before the State Board of Control, which shall conduct the necessary audits and interviews to determine the facts, hear both parties to the dispute, and make a final determination as to the reimbursement actually due.

14085. Whenever any public entity is to receive state or federal funds for the purposes of project planning, design, rights-of-way, construction, acquisition, or improvement of exclusive public mass transit guideways (and their related fixed facilities, power systems, passenger facilities, vehicles, and equipment), it shall prepare for the complete project each of the following that are applicable to the type of project, and transmit them to the department for its review and approval of policies, procedures, and performance standards, which review and approval shall be completed within a reasonable time, on behalf of the State of California, prior to the implementation of the project or the project phases affected:

(a) The overall project financing plan and the overall project development schedule.

(b) Policies, procedures, and performance standards for such matters as the project's management control systems; public hearings; location studies, preliminary engineering investigations, and environmental impact studies; plans, specifications, and cost estimates; acquisition of rights-of-way and other related real properties; relocation assistance; contract provisions, bidding and awards, change orders, payments and audits, and contractor claims; and material and equipment testing.

14085.5. With respect to the review and approval of policies, procedures, and performance standards pursuant to Section 14085, the department's authority shall be directed at such matters as the requirements, criteria, process methods, and project management control systems to be used for effectively performing and accomplishing a project's development; and the department's authority, as it applies to this specific purpose, shall not be directed at determining such matters as a project's actual location and design, its actual transport capability, or its actual service features, unless otherwise provided for by statute or mutual agreement.

14086. The department shall adopt guidelines for purposes of Section 14085. The guidelines and the department's review and approval required pursuant to Section 14085 shall be based on the best contemporary practices and any applicable state or federal laws or regulations for an effective and timely accomplishment and integrity of the project's development.

14086.5. Before approving an overall project financing plan and an overall project development schedule, the department shall obtain the finding of the State Transportation Board, and the board shall transmit its finding to the department within a reasonable time, that the proposal is in accordance with the adopted regional transportation plan and the California Transportation Plan.

14087. If the governing body of a public entity wishes to appeal

an action of the department taken under Section 14085 the matter shall be appealed to the Secretary of the Business and Transportation Agency. Within a reasonable time after receiving the appeal, the secretary shall hear all parties involved and determine the matter, or the secretary may appoint a hearing officer to hear all parties involved and make a recommendation for the consideration of the secretary in determining the matter.

14088. For emergency conditions, and for those minor improvement projects which are not interrelated to proposed projects of greater scope, the director may waive any or all of the requirements of Section 14085 when such action is in the public interest.

14089. Nothing in this article shall be construed to make the receipt of state or federal funds by public entities for the purpose of project planning, design, rights-of-way, construction, acquisition, or improvement of exclusive public mass transit guideways (and their related fixed facilities, power systems, passenger facilities, vehicles, and equipment) contingent upon entering into any agreement with the department pursuant to Section 14081.

SEC. 3. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1140

An act to amend Sections 305, 305.1, and 409 of, and to repeal Sections 308, 308.1, 309, and 309.1 of, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 305 of the Unemployment Insurance Code is amended to read:

305. Regulations for the administration of the functions of the Employment Development Department under this code shall be adopted, amended, or repealed by the Director of Employment Development as provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 305.1 of the Unemployment Insurance Code is amended to read:

305.1. Regulations for the administration of the functions of the Department of Benefit Payments under this code shall be adopted,

amended, or repealed by the Director of Benefit Payments as provided in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 308 of the Unemployment Insurance Code is repealed.

SEC. 4. Section 308.1 of the Unemployment Insurance Code is repealed.

SEC. 5. Section 309 of the Unemployment Insurance Code is repealed.

SEC. 6. Section 309.1 of the Unemployment Insurance Code is repealed.

SEC. 7. Section 409 of the Unemployment Insurance Code is amended to read:

409. The chairman shall assign cases before the board to any three members thereof for consideration and decision. Assignments by the chairman of members to such cases shall be rotated on such a basis so as to equalize the workload of the members but with the composition of the members so assigned being varied and changed to assure that there shall never be a fixed and continuous composition of members. Except as otherwise provided, a decision by two of the members assigned the case shall be the decision of the appeals board. A case shall be considered and decided by the appeals board acting as a whole at the request of any member of the appeals board.

The appeals board shall meet as a whole at such times as the chairman may direct to consider and pass on such matters as the chairman may bring before it, and to consider and decide cases which present issues of first impression or which will enable the appeals board to achieve uniformity of decisions by the respective members.

The appeals board, acting as a whole, may designate certain of its decisions as precedents. The appeals board, acting as a whole, may on its own motion reconsider a previously issued decision solely to determine whether or not such decision shall be designated as a precedent decision. Decisions of the appeals board acting as a whole shall be by a majority vote of its members. The Director of Employment Development, the Director of Benefit Payments, and the appeals board referees shall be controlled by such precedents except as modified by judicial review.

The decisions of the appeals board shall contain a statement of the facts upon which the decision is based, and a statement of the decision itself and the reasons therefor. If the appeals board issues decisions other than those designated as precedent decisions, anything incorporated in such decisions shall be physically attached to and be made a part of such decisions. All decisions designated as precedents shall be published in such manner as to make them available for public use. The appeals board may make such reasonable charge for publications as it deems necessary to defray the cost of their publication and distribution.

CHAPTER 1141

An act to amend Section 7455 of, and to add Section 10813.4 to, the Education Code, relating to vocational education.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 7455 of the Education Code is amended to read:

7455. Any pupil eligible to attend a high school or adult school in a school district subject to the jurisdiction of a county superintendent of schools operating a regional occupational center or regional occupational center program, and who resides in a school district which by itself or in cooperation with other school districts, has not established a regional occupational center, or regional occupational program, is eligible to attend a regional occupational center or regional occupational program maintained by the county superintendent of schools. Any school district which in cooperation with other school districts maintains a regional occupational center, or regional occupational program, or any such cooperating school districts may admit to such center, or program, any pupil, otherwise eligible, who resides in the district or in any of the cooperating districts. Any school district which by itself maintains a regional occupational center, or regional occupational program, may admit to such center, or program, any pupil, otherwise eligible, who resides in the district. No pupil, including adults and minors under subdivision (a) of Section 7451.5, shall be admitted to a regional occupational center, or regional occupational program, unless the county superintendent of schools or governing board of the district or districts maintaining the center, or program, as the case may be, determines that the pupil will benefit therefrom and approves of his admission to the regional occupational center or regional occupational program.

A pupil may be admitted on a full-time or part-time basis, as determined by the county superintendent of schools or governing board of the school district or districts maintaining the center, or program, as the case may be. A school district which by itself or in cooperation with other school districts maintains a regional occupational center, or regional occupational program, may admit pupils residing in other school districts under interdistrict attendance agreements made pursuant to Sections 10801 and 10805.

A county superintendent of schools maintaining a regional occupational program or regional occupational center may admit pupils residing in the county but outside of school districts participating in the county regional occupational program or regional occupational center pursuant to the provisions of Section

10813.4. The county superintendent of schools may authorize pupils who reside in school districts participating in the regional occupational center or regional occupational program conducted by the county superintendent of schools to enroll in other regional occupational programs or regional occupational centers when it is determined that it is in the best interest of the pupils to do so. Such attendance shall be pursuant to an attendance agreement specifying that the county superintendent of schools authorizes the regional occupational center or regional occupational program conducting the classes to report and be credited with the attendance of such pupils. Excess costs of education, if any, shall be paid by the contracting county superintendent of schools.

SEC. 2. Section 10813.4 is added to the Education Code, to read:

10813.4. A county superintendent of schools may admit to regional occupational programs or regional occupational centers operated by the county superintendent of schools, pupils who reside in school districts which are not participating in such regional occupational programs or centers by written agreement of the school district in which the pupils reside, or if the school district maintains a regional occupational program or regional occupational center, by written agreement with such regional occupational program or regional occupational center.

Cost of attendance of pupils pursuant to such an agreement shall be reimbursed to the county superintendent of schools by the pupil's school district at the full foundation program level or the school district's revenue limit, whichever is lower. There shall be no state financial support to the county superintendent of schools for such pupils. The agreement shall provide for reimbursement to the county superintendent of schools for the excess cost of education, if any.

CHAPTER 1142

An act to add Section 28689 to the Health and Safety Code, relating to restaurants.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 28689 is added to the Health and Safety Code, to read:

28689. The state department shall adopt and approve first aid instructions designed and intended for use in removing food which may become stuck in a person's throat. Such instructions shall be limited to first aid techniques not involving the use of any physical instrument or device inserted into the victim's mouth or throat.

The state department shall supply to the proprietor of every restaurant in this state such adopted and approved instructions. The proprietor of every restaurant shall post the instructions in a conspicuous place or places, which may include an employee notice board, in order that the proprietor and employees may become familiar with them, and in order that the instructions may be consulted by anyone attempting to provide relief to a victim in a choking emergency.

In the absence of other evidence of noncompliance with this section, the fact that the instructions were not posted as required by this section at the time of a choking emergency shall not in and of itself subject such proprietor or his employees or independent contractors to liability in any civil action for damages for personal injuries or wrongful death arising from such choking emergency.

Nothing in this section shall impose any obligation on any person to remove, assist in removing, or attempt to remove food which has become stuck in another person's throat. In any action for damages for personal injuries or wrongful death neither the proprietor nor any person who nonnegligently under the circumstances removes, assists in removing, or attempts to remove such food in accordance with instructions adopted by the state department, in an emergency in a restaurant, shall be liable for any civil damages as a result of any acts or omissions by such person in rendering such emergency assistance.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1143

An act to add Section 1481.5 to the Health and Safety Code, relating to emergency medical services.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 1481.5 is added to the Health and Safety Code, to read:

1481.5. The state department shall, by regulation, prescribe standardized insignia or emblems for patches which may be affixed to the clothing of a mobile intensive care paramedic or a mobile intensive care nurse.

CHAPTER 1144

An act to add Sections 4047.6 and 4047.7 to the Business and Professions Code and to amend Section 380 of the Penal Code, relating to prescriptions.

[Approved by Governor September 27, 1975. Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 4047.6 is added to the Business and Professions Code, to read:

4047.6. (a) Except as provided in Section 4047.7, on and after May 1, 1976, a pharmacist filling a prescription order for a drug product prescribed by its trade or brand name may select another drug product with the same active chemical ingredients of the same strength, quantity and dosage form, and of the same generic drug type, as defined in subdivision (f).

(b) In no case shall a selection be made pursuant to this section if the prescriber personally indicates, either orally or in his own handwriting, "Do not substitute," or words of similar meaning. Nothing in this subdivision shall prohibit a prescriber from checking a box on a prescription marked "Do not substitute"; provided that the prescriber personally initials such box or checkmark.

(c) Selection pursuant to this section is within the discretion of the pharmacist, except as provided in subdivision (b). The person who selects the drug product to be dispensed pursuant to this section shall assume the same responsibility for selecting the dispensed drug product as would be incurred in filling a prescription for a drug product prescribed by generic name. There shall be no liability on the prescriber for an act or omission by a pharmacist in selecting, preparing, or dispensing a drug product pursuant to this section. In no case shall the pharmacist select a drug product pursuant to this section unless the drug product selected costs the patient less than the prescribed drug product. The pharmacist shall pass on to the purchaser the difference in the acquisition cost between the drug product prescribed and the drug product dispensed, exclusive of the pharmacist's professional fee. The pharmacist may not charge a higher or different professional fee for the generic drug product dispensed than that charged for the brand name product prescribed.

(d) This section shall apply to all prescriptions, including those presented by or on behalf of persons receiving assistance from the federal government or pursuant to the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(e) When a substitution is made pursuant to this section, the use of the cost-saving drug product dispensed shall be communicated to the patient and the name of the dispensed drug product shall be

indicated on the prescription label, except where the prescriber orders otherwise.

(f) For the purposes of this section, the term "generic drug type" means the chemical or generic name, as determined by the United States Adopted Names (USAN) and accepted by the Federal Food and Drug Administration (FDA), of those drug products having the same active chemical ingredients.

SEC. 1 5. Section 4047.7 is added to the Business and Professions Code, to read:

4047.7. (a) The Director of Health shall establish by regulation a formulary of generic drug types and drug products which the Director of Health determines demonstrate clinically significant biological or therapeutic inequivalence and which, if substituted under Section 4047.6, would pose a threat to the health and safety of patients receiving prescription medication.

(b) The drug formulary established pursuant to this section shall include generic drug types and manufactured brand drug products, including, where applicable, drug products differentiated by dosage form or strength. In compiling the generic drug types and drug products for inclusion on the formulary, the Director of Health may rely on drug product research, testing, information, and formularies compiled by other states, the Department of Health, Education and Welfare, and any other source which the Director of Health deems reliable.

(c) Regulations establishing the drug formulary shall be promulgated within 120 days of the effective date of this section. The formulary shall be added to or deleted from as the Director of Health deems appropriate. Regulations shall be adopted in accordance with Article 1 (commencing with Section 11371) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. Any person who requests that the Director of Health make any inclusion, addition or deletion, of a generic drug type or drug product to the formulary shall have the burden of proof to show cause why such inclusion, addition, or deletion, should be made by the Director of Health.

(d) Upon adoption of the formulary, and upon each addition, deletion or modification to the formulary, the Director of Health shall mail a copy to each pharmacist licensed by the State Board of Pharmacy and with each physician and surgeon licensed to practice in the state with the State Board of Medical Examiners and each person licensed by the Board of Osteopathic Examiners. No pharmacist shall dispense a generically equivalent drug product pursuant to Section 4047.6 if the drug product and its generic drug type is included in the formulary.

SEC. 2. In enacting Section 4047.6 of the Business and Professions Code the Legislature recognizes the responsibility of the Federal Food and Drug Administration and the Food and Drug Section of the State Department of Health to assure that unadulterated, properly labeled, efficacious and quality drug products or generic drug types are available to the general public

through interstate and intrastate commerce.

SEC. 3. Section 380 of the Penal Code is amended to read:

380. Every apothecary, druggist, or person carrying on business as a dealer in drugs or medicines, or person employed as a clerk or salesman by such person, who, in putting up any drugs or medicines, or making up any prescription, or filling any order for drugs or medicines, willfully, negligently, or without consideration of those facts which by use of ordinary care and skill he should have known, omits to label the same, or puts an untrue label, stamp, or other designation of contents, upon any box, bottle, or other package containing any drugs or medicines, or substitutes a different article for any article prescribed or ordered except as provided in Section 4047.6 of the Business and Professions Code, or puts up a greater or less quantity of any article than that prescribed or ordered, or otherwise deviates from the terms of the prescription or order which he undertakes to follow, in consequence of which human life or health is endangered, is guilty of a misdemeanor, or if death ensues, is guilty of a felony.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1145

An act to add Section 14423.5 to the Elections Code, relating to polling places.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 14423.5 is added to the Elections Code, to read:

14423.5. It is the intent of the Legislature that election officials make all reasonable efforts to assure access to polling places by the physically handicapped.

(a) The county clerk shall make all reasonable efforts to locate and utilize polling places which meet the requirements specified by the State Architect for making buildings, structures, and related facilities accessible to and usable by the physically handicapped.

(b) In those polling places which do not meet the requirements specified by the State Architect for accessibility by the physically handicapped, a physically handicapped person may appear outside the polling place and vote a regular ballot Such person may vote the

ballot in a place which is as near as possible to the polling place and which is accessible to the physically handicapped. A precinct board member shall take a regular ballot to such person, qualify such person to vote, and return the voted ballot to the polling place. In those precincts in which it is impractical to vote a regular ballot outside the polling place, absentee ballots shall be provided in sufficient numbers to accommodate physically handicapped persons who present themselves on election day. The absentee ballot shall be presented to and voted by a physically handicapped person in the same manner as a regular ballot may be voted by such person outside the polling place.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be an appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1146

An act to amend Sections 3409 and 4023.5 of the Penal Code, and to amend Sections 520 and 1753.7 of the Welfare and Institutions Code, relating to penal institutions.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 3409 of the Penal Code is amended to read:

3409. (a) Any woman inmate shall upon her request be allowed to continue to use materials necessary for (1) personal hygiene with regard to her menstrual cycle and reproductive system and (2) birth control measures as prescribed by her physician.

(b) Each and every woman inmate shall be furnished by the department with information and education regarding the availability of family planning services.

(c) Family planning services shall be offered to each and every woman inmate at least 60 days prior to a scheduled release date. Upon request any woman inmate shall be furnished by the department with the services of a licensed physician or she shall be furnished by the department or by any other agency which contracts with the department with services necessary to meet her family planning needs at the time of her release.

SEC. 2. Section 4023.5 of the Penal Code is amended to read:

4023.5. (a) Any female confined in any local detention facility shall upon her request be allowed to continue to use materials necessary for (1) personal hygiene with regard to her menstrual

cycle and reproductive system and (2) birth control measures as prescribed by her physician.

(b) Each and every female confined in any local detention facility shall be furnished by the county with information and education regarding the availability of family planning services.

(c) Family planning services shall be offered to each and every woman inmate at least 60 days prior to a scheduled release date. Upon request any woman inmate shall be furnished by the county with the services of a licensed physician or she shall be furnished by the county or by any other agency which contracts with the county with services necessary to meet her family planning needs at the time of her release.

(d) For the purposes of this section, "local detention facility" means any city, county, or regional facility used for the confinement of any female prisoner for more than 24 hours.

SEC. 3. Section 520 of the Welfare and Institutions Code is amended to read:

520. (a) Any female confined in a state or local juvenile facility shall upon her request be allowed to continue to use materials necessary for (1) personal hygiene with regard to her menstrual cycle and reproductive system and (2) birth control measures as prescribed by her physician.

(b) Any female confined in a state or local juvenile facility shall upon her request be furnished by the confining state or local agency with information and education regarding prescription birth control measures.

(c) Family planning services shall be offered to each and every woman inmate at least 60 days prior to a scheduled release date. Upon request any woman inmate shall be furnished by the confining state or local agency with the services of a licensed physician, or she shall be furnished by the confining state or local agency or by any other agency which contracts with the confining state or local agency, with services necessary to meet her family planning needs at the time of her release.

(d) For the purposes of this section, "local juvenile facility" means any city, county, or regional facility used for the confinement of juveniles for more than 24 hours.

SEC. 4. Section 1753.7 of the Welfare and Institutions Code is amended to read:

1753.7. (a) Any female confined in a Department of the Youth Authority facility shall, upon her request, be allowed to continue to use materials necessary for (1) personal hygiene with regard to her menstrual cycle and reproductive system and (2) birth control measures as prescribed by her physician.

(b) Any female confined in a Department of the Youth Authority facility shall upon her request be furnished by the department with information and education regarding prescription birth control measures.

(c) Family planning services shall be offered to each and every

female confined in a Department of Youth Authority facility at least 60 days prior to a scheduled release date. Upon request any such female shall be furnished by the department with the services of a licensed physician or she shall be furnished by the department or by any other agency which contracts with the department with services necessary to meet her family planning needs at the time of her release.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1147

An act to amend Sections 18600 and 20084 of, and to repeal Sections 18600 and 20084 of, the Elections Code, relating to elections.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 18600 of the Elections Code is amended to read:

18600. Any name written upon a ballot, including a reasonable facsimile of the spelling of such a name, shall be counted, unless prohibited by Section 18603, for that name for the office under which it is written, if it is written in the blank space therefor, whether or not a cross (+) is stamped or made with pen or pencil in the voting square after the name so written.

SEC. 2. Section 20084 of the Elections Code is amended to read:

20084. At the trial the ballots shall be opened and a recount taken, in the presence of all the parties, of the votes cast for the various candidates in all contests where it appears from the statements filed that a recount is necessary for the proper determination of the contest. The recount shall include a tabulation of all names written upon a ballot and which are subject to canvass pursuant to Chapter 8.5 (commencing with Section 18600) of Division 10.

SEC. 3. Section 20084 of the Elections Code is amended to read:

20084. At the trial the ballots shall be opened and a recount taken, in the presence of all the parties, of the votes cast for the various candidates in all contests where it appears from the statements filed that a recount is necessary for the proper determination of the contest. The recount shall include a tabulation of all names written upon a ballot and which are subject to canvass pursuant to Chapter 9 (commencing with Section 17100) of Division 10.

SEC. 4. It is the intent of the Legislature, if this bill and AB 1599 are both chaptered and become effective January 1, 1976, and this bill amends Section 18600 of the Elections Code and AB 1599 adds Section 17100 to the Elections Code, that both be given effect and incorporated in the form set forth in Section 10 of AB 1599. Therefore, in the event AB 1599 is chaptered and takes effect January 1, 1976, adding Section 17100, Section 18600 as amended by Section 1 of this act is repealed.

SEC. 5. In the event both this bill and AB 1599 are chaptered and take effect January 1, 1976, and this bill amends Section 20084 to the Elections Code and AB 1599 adds Chapter 9 (commencing with Section 17100) of Division 10 to the Elections Code, Section 20084 of the Elections Code as amended by Section 3 of this act shall become operative and Section 20084 of the Elections Code as amended by Section 2 of this act is repealed. In the event AB 1599 is not chaptered or does not take effect January 1, 1976, adding Chapter 9 (commencing with Section 17100) of Division 10 to the Elections Code, Section 20084 of the Elections Code as amended by Section 2 of this act shall become operative and Section 20084 of the Elections Code as amended by Section 3 of this act is repealed.

CHAPTER 1148

An act to add Section 25423.6 to the Education Code, relating to public postsecondary education.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 25423.6 is added to the Education Code, to read:

25423.6. Notwithstanding any other provision of law to the contrary, the governing board of any community college district may employ any student enrolled in the district who is an exconvict or who is on parole, other than a person determined to be a sexual psychopath, to perform noninstructional duties and such student workers shall not be considered to be classified employees.

CHAPTER 1149

An act to add Section 19549.7 to, the Business and Professions Code, relating to horseracing.

[Approved by Governor September 29, 1975. Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 19549.7 is added to the Business and Professions Code, to read:

19549.7. Notwithstanding Section 19549 or any other provision of this chapter, the maximum number of quarter horse racing days which may be allocated to the California Exposition and State Fair shall be eight weeks, in addition to the days allocated pursuant to Section 19549. Such quarter horse racing shall be conducted by a person other than the California Exposition and State Fair.

CHAPTER 1150

An act to amend Sections 4450 and 4451 of the Government Code, relating to physically handicapped persons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 4450 of the Government Code is amended to read:

4450. It is the purpose of this chapter to insure that all buildings, structures, sidewalks, curbs, and related facilities, constructed in this state by the use of state, county, or municipal funds, or the funds of any political subdivision of the state shall be accessible to and usable by, the physically handicapped. The State Architect shall adopt by regulation standards for making buildings, structures, sidewalks, curbs, and related facilities accessible to and usable by the physically handicapped. The regulations shall impose as a minimum the standards for buildings and structures as are contained in pertinent provisions of the latest edition of the Uniform Building Code, as adopted by the International Conference of Building Officials, and shall contain such additional standards relating to buildings, structures, sidewalks, curbs, and other related facilities as the State Architect determines are necessary to assure access and usability for the physically handicapped. In developing and revising such additional requirements, the State Architect shall consult with the State Department of Rehabilitation, the League of California Cities, the County Supervisors Association of California, and at least one private organization representing and comprised of physically handicapped persons.

SEC. 2. Section 4451 of the Government Code is amended to read:

4451. Except as otherwise provided in this section, this chapter shall be limited in its application to all buildings and facilities stated

in Section 4450 intended for use by the public, which have any reasonable availability to, or usage by, physically handicapped persons, including all facilities used for education and instruction including the University of California, the California State University and Colleges, and the various community college districts, which are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state.

Buildings, structures, and facilities, occupied 50 percent or more, which are leased, rented, contracted, sublet or hired for periods in excess of two years by any municipal, county, or state division of government, or special district shall be made accessible to and usable by the physically handicapped. Exceptions to this paragraph may be made upon application to, and approval by, the Department of Rehabilitation.

Except as otherwise provided by law, buildings, structures, sidewalks, curbs, and related facilities subject to the provisions of this chapter or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code shall conform to the regulations adopted pursuant to Section 4450 which are in effect on the date a building permit is issued therefor. With respect to such buildings, structures, sidewalks, curbs, and related facilities for which a building permit is not required, regulations adopted pursuant to Section 4450 which are in effect at the time construction is commenced shall be applicable.

Until regulations are adopted by the State Architect pursuant to Section 4450, buildings, structures, sidewalks, curbs and related facilities subject to the provisions of this chapter or Part 5.5 (commencing with Section 19955) of Division 13 of the Health and Safety Code shall conform to the American Standards Association Specifications A117.1/1961.

This chapter shall apply to temporary or emergency construction as well as permanent buildings.

Administrative authorities as designated under Section 4453 may grant exceptions from the literal requirements of the standards or permit the use of other methods or materials, but only when it is clearly evident that equivalent facilitation and protection are thereby secured.

SEC. 3. The amendments to Sections 4450 and 4451 of the Government Code made by this act do not constitute a change in, but are declaratory of, the existing law.

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

In order to make various technical, clarifying and other changes in the provisions of law that are intended to insure full and equal access to public facilities for the physically handicapped, it is necessary that this act take immediate effect.

CHAPTER 1151

An act making an appropriation to the Department of Justice to pay a judgment in favor of O. C. Nolen, Addie Nolen, Perry Miller, Susie Edwards, Antoine Maurice Nolen, and Alvin Miller, Jr., and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. The sum of two hundred seventy thousand dollars ($270,000) is hereby appropriated from the General Fund to the Department of Justice for the payment of a judgment in favor of O. C. Nolen, Addie Nolen, Perry Miller, Susie Edwards, Antoine Maurice Nolen, and Alvin Miller, Jr., against eight employees of the State of California in an action brought in federal district court in San Francisco

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

In order to pay a judgment in favor of the heirs of several decedents and ending a hardship to these heirs as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1152

An act to add and repeal Section 25512 to the Business and Professions Code, relating to alcoholic beverages and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 25512 is added to the Business and Professions Code, to read:

25512. Notwithstanding any other provision of this division, a brand owner, or any officer, director or agent of any such person, may replace without cost, beer or distilled spirits offered for sale by a retailer which was destroyed or damaged by earthquakes which occurred between July 31, 1975 and August 3, 1975, and which was located in a county containing a population of more than 101,000 and under 104,000, as provided in Section 28020 of the Government Code.

This section shall remain in effect only until the day six months after the effective date of this act, and as of such date is repealed.

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

The recent earthquakes occurring between July 31, 1975 and August 3, 1975 have destroyed and damaged property in the northern part of the state to such extent that immediate relief is necessary to allow the people of that area to recover from the economic blows which they have suffered.

Brand owners of alcoholic beverages are willing to assist retailers suffering this disaster by replacing without charge the stocks of beer and distilled spirits lost by such retailers in those areas. However, they are prohibited from so doing by the provisions of the Alcoholic Beverage Control Act contained in the Business and Professions Code. This act will permit these brand owners to render aid to retailers of beer and distilled spirits and by taking effect immediately will enable those suffering the loss of their businesses to become economically independent as soon as possible.

CHAPTER 1153

An act to amend Sections 7000.5, 7002, 7003, and 7007 of the Business and Professions Code, relating to Contractors' State License Board.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 13 members appointed by the Governor.

SEC. 2. Section 7002 of the Business and Professions Code is amended to read:

7002. One member of the board shall be a general engineering contractor, three members shall be general building contractors, four members shall be specialty contractors, one member shall be a member of a labor organization representing the building trades, and four members shall be public members.

For the purposes of construing this article, the terms "general engineering contractor," "general building contractor," and "specialty contractor" shall have the meanings given in Article 4 (commencing with Section 7055) of this chapter.

Each member of the board, except a public member and a member of a labor organization representing the building trades,

shall be of recognized standing in his branch of the contracting business. Each member of the board shall be at least 30 years of age and of good character.

Each member of the board shall have been a citizen and resident of the State of California for at least five years next preceding his appointment.

SEC. 3. Section 7003 of the Business and Professions Code is amended to read:

7003. The terms of the members of the board in office on the effective date of amendments to this section made at the 1973–74 Regular Session of the Legislature expire as follows: one general engineering contractor and two public members, June 1, 1974; one general building contractor, one specialty contractor, and one public member, June 1, 1975; one general building contractor and one specialty contractor, June 1, 1976; one general building contractor and two specialty contractors June 1, 1977.

Except as otherwise provided, an appointment to fill a vacancy caused by the expiration of the term of office shall be for a term of four years and shall be filled, except for a vacancy in the term of a public member, by a member from the same branch of the contracting business as was the branch of the member whose term has expired. A vacancy in the term of a public member shall be filled by another public member. Each member shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Vacancies occurring in the membership of the board for any cause shall be filled by appointment for the balance of the unexpired term.

No person shall serve as a member of the board for more than two consecutive terms except as provided in Section 131.

The Governor shall on or before June 1, 1976, appoint the member who is a member of a labor organization representing the building trades and the public member provided for at the 1975–76 Regular Session, and their terms shall expire on June 1, 1980.

SEC. 4. Section 7007 of the Business and Professions Code is amended to read:

7007. Seven members constitute a quorum at a board meeting.

Due notice of each meeting and the time and place thereof shall be given each member in the manner provided by the bylaws.

CHAPTER 1154

An act to add Section 14401.5 to the Elections Code, and to amend Sections 6700 and 18025 of the Government Code, relating to public employees.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 14401.5 is added to the Elections Code, to read:

14401.5. The provisions of Sections 14400 and 14401 shall apply to all public agencies and the employees thereof, as well as to employers and employees in private industry.

SEC. 2. Section 6700 of the Government Code is amended to read:

6700. The holidays in this state are:

(a) Every Sunday.

(b) January 1st.

(c) February 12th, known as "Lincoln Day."

(d) The third Monday in February.

(e) The last Monday in May.

(f) July 4th.

(g) First Monday in September.

(h) September 9th, known as "Admission Day."

(i) The second Monday in October, known as "Columbus Day."

(j) November 11th, known as "Veterans Day."

(k) December 25th.

(*l*) Good Friday from 12 noon until 3 p.m.

(m) Every day appointed by the President or Governor for a public fast, thanksgiving, or holiday.

Except for the Thursday in November appointed as Thanksgiving Day, this subdivision shall not apply to a city, county or district unless made applicable by charter, or by ordinance or resolution of the governing body thereof.

SEC. 3. Section 18025 of the Government Code is amended to read:

18025. All employees shall be entitled to the following holidays: the first day of January, the 12th day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the ninth day of September, the second Monday in October, the 11th day of November, the 25th day of December, the day chosen by an employee pursuant to the provisions of Section 18025.1, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

When a day herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays herein mentioned, and who does work on any of said holidays, shall be entitled to be paid compensation or given compensating time off for such work within the meaning of this article. For the purpose of computing the number of hours worked, time during which an

employee is excused from work because of holidays, sick leave, vacation, or compensating time off, shall be considered as time worked by the employee.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service pursuant to this act, because there are savings as well as costs which, in the aggregate, do not result in significant cost changes.

CHAPTER 1155

An act to amend Sections 25205, 25217, 25300, 25303, and 25536 of, and to add Section 25217.1 to, the Public Resources Code, and to amend Sections 305 and 308 of the Public Utilities Code, relating to the state agencies.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 25205 of the Public Resources Code is amended to read:

25205. (a) No person shall be a member of the commission who, during the two years prior to appointment on the commission, received any substantial portion of his income directly or indirectly from any electric utility, or who engages in sale or manufacture of any major component of any facility. No member of the commission shall be employed by any electric utility, applicant, or, within two years after he ceases to be a member of the commission, by any person who engages in the sale or manufacture of any major component of any facility.

(b) Except as provided in Section 25202, the members of the commission shall not hold any other elected or appointed public office or position.

(c) The members of the commission and all employees of the commission shall comply with all applicable provisions of Section 19251 of the Government Code.

(d) No person who is a member or employee of the commission shall participate personally and substantially as a member or employee of the commission, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which, to his knowledge, he, his spouse, minor child, or partner, or any

organization, except a governmental agency or educational or research institution qualifying as a nonprofit organization under state or federal income tax law, in which he is serving, or has served as officer, director, trustee, partner, or employee while serving as a member or employee of the commission or within two years prior to his appointment as a member of the commission, has a direct or indirect financial interest.

(e) No person who is a partner, employer, or employee of a member or employee of the commission shall act as an attorney, agent, or employee for any person other than the state in connection with any judicial or other proceeding, hearing, application, request for a ruling, or other determination, contract, claim, controversy, study, plan, or other particular matter in which the commission is a party or has a direct and substantial interest.

(f) The provisions of this section shall not apply if the Attorney General finds that the interest of the member or employee of the commission is not so substantial as to be deemed likely to affect the integrity of the services which the state may expect from such member or employee.

(g) Any person who violates any provision of this section is guilty of a felony and shall be subject to a fine of not more than ten thousand dollars ($10,000) or imprisonment in the state prison for not more than two years, or both.

(h) The amendment of subdivision (d) of this section enacted by the 1975–76 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 2. Section 25217 of the Public Resources Code is amended to read:

25217. The commission shall do all of the following:

(a) Appoint an executive director with administration and fiscal experience, who shall serve at its pleasure and whose duties and salary shall be prescribed by the commission.

(b) Employ and prescribe the duties of other staff members as necessary to carry out the provisions of this division. Staff members of the commission may participate in all matters before the commission to the limits prescribed by the commission.

(c) Employ legal counsel who shall advise the commission and represent it in connection with legal matters and litigation before any boards and agencies of the state or federal government.

SEC. 3. Section 25217.1 is added to the Public Resources Code, to read:

25217.1. The commission shall nominate and the Governor shall appoint for a term of three years a public adviser to the commission who shall be an attorney admitted to the practice of law in this state and who shall carry out the provisions of Section 25222 as well as other duties prescribed by this division or by the commission. The adviser may be removed from office only upon the joint concurrence of four commissioners and the Governor.

SEC. 4. Section 25300 of the Public Resources Code is amended to read:

25300. Every electric utility in the state shall prepare and transmit to the commission on or before March 1, 1976, and every two years thereafter, a report specifying 5-, 10-, and 20-year forecasts or assessments of loads and resources for its service area. The report shall set forth the facilities which, as determined by the electric utility, will be required to supply electric power during the forecast or assessment periods. The report shall be in a form specified by the commission and shall include all of the following:

(a) A tabulation of estimated peak loads, resources, and reserve margins for each year during the 5- and 10-year forecast or assessment periods, and an estimate of peak load, resources, and reserve margins for the last year in the 20-year forecast or assessment period.

(b) A list of existing electric generating plants in service, with a description of planned and potential generating capacity at existing sites.

(c) A list of facilities which will be needed to serve additional electrical requirements identified in the forecasts or assessments, the general location of such facilities, and the anticipated types of fuel to be utilized in the proposed facilities.

(d) A description of additional system capacity which might be achieved through, among other things, improvements in (1) generating or transmission efficiency, (2) importation of power, (3) interstate or interregional pooling, and (4) other improvements in efficiencies of operation.

(e) An estimation of the availability and cost of fuel resources for the 5-, 10-, and 20-year forecast or assessment periods with a statement by the electric utility describing firm commitments for supplies of fuel required during the forecast or assessment periods.

(f) An annual load duration curve and a forecast of anticipated peak loads for each forecast or assessment period for the residential, commercial, industrial, and such other major demand sectors in the service area of the electric utility as the commission shall determine.

(g) A description of projected population growth, urban development, industrial expansion, and other growth factors influencing increased demand for electric energy and the bases for such projections.

SEC. 5. Section 25303 of the Public Resources Code is amended to read:

25303. For a period of two months after the receipt of the reports required under Section 25300 the commission shall receive the comments of any person on the reports. Within such period, the Public Utilities Commission shall submit its independent evaluation and analysis of the reports to the commission.

SEC. 6. Section 25536 of the Public Resources Code is amended to read:

25536. Pending completion of the statewide and service area forecasts of electric power demand specified in Section 25309, the

commission shall utilize as an interim forecast for purposes of determining the acceptability of alternative site and related facility proposals as provided in subdivision (a) of Section 25514 and subdivision (d) of Section 25523, the 10-year forecast of loads and resources prepared by the Public Utilities Commission from reports required or submitted as of March 31, 1974, under Sections 2 and 3 of General Order 131 of the Public Utilities Commission. On the first June 1st and the second June 1st following the effective day of this division, the commission shall commence public hearings, at least one of which shall be in the City of Sacramento. Any person may participate in any such hearings. The hearing shall be conducted to secure the views and comments of the public, the electric utilities, other state and federal agencies, and city and county governments regarding revision of the interim forecasts based on the considerations specified in Section 25304 and on updated information regarding forecast loads and resources submitted by any electric utility. Such hearings shall be concluded within 30 days from the date of their commencement. Within 60 days of the conclusion of the hearings specified in this section, the commission shall issue a final report specifying the revisions, if any, to the interim forecast. The report shall be based upon the information and views presented at the public hearings and the commission's independent analysis.

SEC. 7. Section 305 of the Public Utilities Code is amended to read:

305. The commissioners shall elect one of their number president of the commission. The president shall preside at all meetings and sessions of the commission.

SEC. 8. Section 308 of the Public Utilities Code is amended to read:

308. The commission shall appoint an executive director, who shall hold office during its pleasure. The executive director shall be responsible for the commission's executive and administrative duties and shall organize, coordinate, supervise, and direct the operations and affairs of the commission and expedite all matters within the commission's jurisdiction. The executive director shall keep a full and true record of all proceedings of the commission, issue all necessary process, writs, warrants, and notices, and perform such other duties as the commission prescribes. The commission may authorize the executive director to dismiss complaints or applications when all parties are in agreement thereto, in accordance with such rules as it may prescribe.

The commission may appoint assistant executive directors who may serve warrants and other process in any county or city and county of this state.

CHAPTER 1156

An act to add Section 527.3 to the Code of Civil Procedure, relating to injunctions and restraining orders.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. In the interpretation and application of this act the public policy of this state is declared as follows:

Under prevailing economic conditions the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor and thereby to obtain acceptable terms and conditions of employment. It is therefore necessary that he have full freedom of association and self-organization and the right to engage in concerted activities for the purpose of collective bargaining, picketing or other mutual aid or protection.

Equity procedure that permits a complaining party to obtain sweeping injunctive relief that is not preceded by or conditioned upon notice to and hearing of the responding party or parties, or that issues after hearing based upon written affidavits alone and not wholly or in part upon examination, confrontation and cross-examination of witnesses in open court, is peculiarly subject to abuse in labor litigation for each of the following reasons:

(a) The status quo cannot be maintained, but is necessarily altered by the injunction.

(b) The determination of issues of veracity and of probability of fact from the affidavits of the opposing parties which are contradictory and, under the circumstances, untrustworthy rather than from oral examination in open court, is subject to grave error.

(c) The error in issuing the injunctive relief is usually irreparable to the opposing party.

(d) The delay incident to the normal court of appellate procedure frequently makes ultimate correction of error in law or in fact unavailing in the particular case.

SEC. 2. Section 527.3 is added to the Code of Civil Procedure, to read:

527.3. (a) In order to promote the rights of workers to engage in concerted activities for the purpose of collective bargaining, picketing or other mutual aid or protection, and to prevent the evils which frequently occur when courts interfere with the normal processes of dispute resolution between employers and recognized employee organizations, the equity jurisdiction of the courts in cases involving or growing out of a labor dispute shall be no broader than as set forth in subdivision (b) of this section, and the provisions of subdivision (b) of this section shall be strictly construed in accordance with existing law governing labor disputes with the

purpose of avoiding any unnecessary judicial interference in labor disputes.

(b) The acts enumerated in this subdivision, whether performed singly or in concert, shall be legal, and no court nor any judge nor judges thereof, shall have jurisdiction to issue any restraining order or preliminary or permanent injunction which, in specific or general terms, prohibits any person or persons, whether singly or in concert, from doing any of the following:

(1) Giving publicity to, and obtaining or communicating information regarding the existence of, or the facts involved in, any labor dispute, whether by advertising, speaking, patrolling any public street or any place where any person or persons may lawfully be, or by any other method not involving fraud, violence or breach of the peace.

(2) Peaceful picketing or patrolling involving any labor dispute, whether engaged in singly or in numbers.

(3) Assembling peaceably to do any of the acts specified in paragraphs (1) and (2) or to promote lawful interests.

(4) Except as provided in subparagraph (iv), for purposes of this section, "labor dispute" is defined as follows:

(i) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry, trade, craft, or occupation; or have direct or indirect interests therein; or who are employees of the same employer; or who are members of the same or an affiliated organization of employers or employees; whether such dispute is (a) between one or more employers or associations of employers and one or more employees or associations of employees; (b) between one or more employers or associations of employers and one or more employers or associations of employers; or (c) between one or more employees or associations of employees and one or more employees or associations of employees; or when the case involves any conflicting or competing interests in a "labor dispute" of "persons participating or interested" therein (as defined in subparagraph (ii)).

(ii) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it is engaged in the same industry, trade, craft, or occupation in which such dispute occurs, or has a direct or indirect interest therein, or is a member, officer, or agent of any association composed in whole or in part of employers or employees engaged in such industry, trade, craft, or occupation.

(iii) The term "labor dispute" includes any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(iv) The term "labor dispute" does not include a jurisdictional strike as defined in Section 1118 of the Labor Code.

(c) Nothing contained in this section shall be construed to alter or supersede the provisions of Chapter 1 of the 1975–76 Third Extraordinary Session, and to the extent of any conflict between the provisions of this act and that chapter, the provisions of the latter shall prevail.

(d) Nothing contained in this section shall be construed to alter the legal rights of public employees or their employers, nor shall this section alter the rights of parties to collective-bargaining agreements under the provisions of Section 1126 of the Labor Code.

(e) It is not the intent of this section to permit conduct that is unlawful including breach of the peace, disorderly conduct, the unlawful blocking of access or egress to premises where a labor dispute exists, or other similar unlawful activity.

CHAPTER 1157

An act to amend Sections 21201 and 21201.5 of the Vehicle Code, relating to bicycles.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 21201 of the Vehicle Code is amended to read:

21201. (a) No person shall operate a bicycle on a roadway unless it is equipped with a brake which will enable the operator to make one braked wheel skid on dry, level, clean pavement.

(b) No person shall operate on the highway any bicycle equipped with handlebars so raised that the operator must elevate his hands above the level of his shoulders in order to grasp the normal steering grip area.

(c) No person shall operate upon any highway a bicycle which is of such a size as to prevent the operator from safely stopping the bicycle, supporting it in an upright position with at least one foot on the ground, and restarting it in a safe manner.

(d) Every bicycle operated upon any highway during darkness shall be equipped (1) with a lamp emitting a white light which, while the bicycle is in motion, illuminates the highway in front of the bicyclist and is visible from a distance of 300 feet in front and from the sides of the bicycle; (2) with a red reflector, of a type approved by the department, on the rear which shall be visible from a distance of 500 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle; (3) with a white or yellow reflector, of a type approved by the department, on each pedal visible from the front and rear of the bicycle from a distance of 200 feet; and (4) with a white or yellow reflector on each side forward

of the center of the bicycle, and with a white or red reflector on each side to the rear of the center of the bicycle, except that bicycles which are equipped with reflectorized tires on the front and the rear need not be equipped with these side reflectors.

(e) A lamp or lamp combination, emitting a white light, attached to the operator and visible from a distance of 300 feet in front and from the sides of the bicycle, may be used in lieu of the lamp required by clause (1) of subdivision (d).

SEC. 2. Section 21201.5 of the Vehicle Code is amended to read:

21201.5. (a) No person shall sell or offer for sale a reflex reflector or reflectorized tire for use on a bicycle unless it is of a type approved by the department.

(b) No person shall sell or offer for sale a new bicycle that is not equipped with a white or yellow reflector, of a type approved by the department, on each pedal visible from the front and rear of the bicycle during darkness from a distance of 200 feet, and with a white or yellow reflector on each side forward of the center of the bicycle, and with a white or red reflector on each side to the rear of the center of the bicycle, except that bicycles which are equipped with reflectorized tires on the front and rear need not be equipped with these side reflectors.

(c) No person shall sell or offer for sale a bicycle unless it is equipped with a red reflector, of a type approved by the department, on the rear of the bicycle.

(d) Area reflectorizing material meeting the requirements of Section 25500 may be used on a bicycle.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which, in the aggregate, do not result in significant, identifiable cost changes.

CHAPTER 1158

An act to amend Sections 1301, 1332, and 1387 of the Education Code, and to amend Sections 53, 10000, 10001, 10002, 10004, 14427, 15402, and 15711 of, to amend and renumber Sections 10008, 10009, 10010, 10011, 10012, 10012.4, 10012.5, 10012.6, 10015, 10016, 10019, and 10020 of, to add Sections 10005 and 10010.5 to, to add Chapter 2 (commencing with Section 10200) to Division 7 of, to repeal Sections 10003, 10005, 10006, 10007, 10013, 10014, 10017, 10018, 23512.10, 23515, and 23530.5 of, to repeal Chapter 2 (commencing with Section 10200) of Division 7 of, and to repeal Article 3 (commencing with Section 22870) of Chapter 2 of Part 2 of Division 12 of, the Elections Code,

relating to elections.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 53 of the Elections Code is amended to read:

53. On the ballots for any special election at which a partisan office is to be filled there shall be printed in the manner prescribed by Section 10210 after the name of each partisan candidate the designation of the party with which such candidate is affiliated.

SEC. 1.5. Section 1301 of the Education Code is amended to read:

1301. School district elections shall be governed by the Elections Code, except as otherwise provided in this code.

SEC. 2. Section 1332 of the Education Code is amended to read:

1332. When a consolidated school district governing board member election is required to be held there shall be as many separate lists of candidates as there are school districts for which governing board members are to be elected. Each list of candidates shall be headed by the name of the school district for which the persons listed are governing board member candidates. The name of each school district shall be printed in capital letters, and shall be separated from the list of candidates beneath it by a line. The names of the school districts with the list of candidates for governing board member of each district following each name shall be arranged in the following order, as the case may require:

(a) First, community college district if there be one; second, high school district; third, elementary school district; or

(b) First, community college district; second, unified district; or

(c) First, community college district; second, high school district.

The names of the candidates for the office of governing board member of one district shall not be separated from each other on the ballot by the names of candidates for governing board member of another district, and the list of candidates for each district shall be separated from the other lists by two double rules, one below the list of candidates and one above the name of the district which precedes the list.

Candidates for office in each school district shall be listed on the ballot as follows, whether on a separate ballot for the district or on the list for the district on a consolidated ballot:

(a) The candidates shall be placed on a single list on the ballot regardless of how many members are to be elected;

(b) In an election held under Section 1120 to elect additional governing board members, the candidates for the new offices shall be listed separately from the candidates for the existing office and shall be voted for separately;

(c) When an election to recall a governing board member is held on the third Tuesday in April, the candidates for the office to succeed the incumbent if he is recalled shall be listed separately from the candidates to succeed governing board members whose recall is not sought.

SEC. 3. Section 1387 of the Education Code is amended to read:

1387. Subject to the provisions of Sections 1115 and 1332 of this code, the ballot used in any school district governing board election shall be subject to the following requirements:

(a) Ballot paper or punchcards, whichever is used, shall be acquired from the Secretary of State pursuant to Section 10001 of the Elections Code.

(b) All ballots used in school district governing board member elections shall have printed immediately below the perforated line along the top of the ballot, and above any instructions to voters, in capital type at least 12 point in size the words "Ballot for School District Governing Board Member Election," followed by the name of the district. If a punchcard voting system is used, only the name of the election and the date of the election shall be printed on the stub attached to the punchcard and the words "Ballot for School District Governing Board Member Election," followed by the name of the district, shall be printed upon any ballot reference page or pages upon which is also printed, the instructions to the voters, office titles, names of candidates and the ballot titles of measures, in conformance with the provisions of Division 9, Chapter 8 of the Elections Code.

(c) It shall comply with the provisions of the Elections Code as to ballot form and details including candidates occupational designation, excepting instructions to voters thereon shall be as provided for in local elections by the Elections Code.

No candidate shall assume a designation which would mislead the voters.

SEC. 4. Section 10000 of the Elections Code is amended to read:

10000. All expenses, authorized and necessarily incurred in the preparation for and conduct of elections as provided in this code, shall be paid from the several county treasuries, except that when an election is called by the governing body of a city, the expenses shall be paid from the treasury of the city. All payments shall be made in the same manner as other county or city expenditures are made. The clerk, in providing the materials required by this division, need not utilize the services of the county or city purchasing agent.

SEC. 5. Section 10001 of the Elections Code is amended to read:

10001. The Secretary of State shall obtain and keep on hand a sufficient supply of tinted paper and tinted punchcards for ballots, to be furnished, in quantities ordered, to any jurisdiction holding an election pursuant to the laws of California, upon payment of the cost of the paper or punchcards.

No user or vendor shall warehouse for a subsequent election any ballot paper or ballot punchcards furnished by the Secretary of State

for a specific election without first obtaining authorization in writing from the Secretary of State for such storage. Any such paper not used in that election, not authorized to be retained for subsequent elections, and not returned to the Secretary of State shall be destroyed. A certificate of destruction setting forth the date of destruction and the amount of paper destroyed shall be forwarded to the Secretary of State.

SEC. 6. Section 10002 of the Elections Code is amended to read:

10002. Ballot paper and punchcards supplied by the Secretary of State shall be watermarked or overprinted with a design, to be furnished by the Secretary of State, so that the watermark or overprint shall be plainly discernible on the outside of the ballot.

SEC. 7. Section 10003 of the Elections Code is repealed.

SEC. 8. Section 10004 of the Elections Code is amended to read:

10004. There shall be a revolving fund for the purchase of ballot paper and punchcards in the amount of one hundred seventy thousand dollars ($170,000). The fund shall be used for the purchase of ballot paper and punchcards as provided in this chapter and shall be reimbursed by the receipts from the jurisdiction obtaining the ballot paper or punchcards in accordance with this chapter. The fund shall at all times be intact and represented either by cash in the State Treasury, ballot paper or punchcards in the custody of the Secretary of State, or accounts receivable representing ballot paper or punchcard sales.

SEC. 9. Section 10005 of the Elections Code is repealed.

SEC. 10. Section 10005 is added to the Elections Code, to read:

10005. The person in charge of elections for any county, city and county, city, or district shall provide ballots for any elections within his jurisdiction and shall cause to be printed on them the name of every candidate whose name has been certified to or filed with the proper officer pursuant to law and who, therefore, is entitled to a place on the appropriate ballot.

SEC. 11. Section 10006 of the Elections Code is repealed.

SEC. 12. Section 10007 of the Elections Code is repealed.

SEC. 13. Section 10008 of the Elections Code is amended and renumbered to read:

10006. Ballots not printed in accordance with this chapter shall not be cast nor counted at any election.

SEC. 14. Section 10009 of the Elections Code is amended and renumbered to read:

10007. At least 25 days before the primary, each county clerk shall prepare separate sample ballots for each political party and a separate sample nonpartisan ballot, placing thereon in each case in the order provided in Chapter 2 (commencing with Section 10100) of Division 7 of this code, and under the appropriate title of each office, the names of all candidates for whom nomination papers have been duly filed with him or have been certified to him by the Secretary of State to be voted for in his county at the primary election. The sample ballot shall be identical to the official ballots,

except as otherwise provided by law. The sample ballots shall be printed on paper of a different texture from the paper to be used for the official ballot. One sample ballot of the party to which the voter belongs, as evidenced by his registration, shall be mailed to each voter entitled to vote at the primary not more than 40 nor less than 5 days before the election. A nonpartisan sample ballot shall be so mailed to each voter who is not registered as intending to affiliate with any of the parties participating in the primary election.

SEC. 15. Section 10010 of the Elections Code is amended and renumbered to read:

10008. At the time the county clerk prepares sample ballots for each political party at the presidential primary, he shall also prepare a list of candidates for delegates for each political party. The names of the candidates for delegates of any political party shall be arranged upon the list of candidates for delegates of that party in parallel columns under their preference for President. The order of groups on the list shall be alphabetically according to the names of the persons they prefer appear upon the ballot. Each column shall be headed in boldface 10-point, gothic type as follows: "The following delegates are pledged to _____." (The blank being filled in with the name of that candidate for presidential nominee for whom the members of the group have expressed a preference.) The names of the candidates for delegates shall be printed in eight-point, roman capital type.

Copies of the list of candidates for delegates of each party shall be submitted by the county clerk to the chairman of the county central committee of that party, and the county clerk shall post a copy of each list in a conspicuous place in his office.

SEC. 16. Section 10011 of the Elections Code is amended and renumbered to read:

10009. The county clerk shall forthwith submit the sample ballot of each political party to the chairman of the county central committee of that party and shall mail a copy to each candidate for whom nomination papers have been filed in his office or whose name has been certified to him by the Secretary of State, to the post office address as given in the nomination paper or certification, and he shall post a copy of each sample ballot in a conspicuous place in his office.

SEC. 17. Section 10012 of the Elections Code is amended and renumbered to read:

10010. Each county clerk or, in case of separate city elections, the clerk or secretary of the legislative body of the city, for each election other than a direct primary or a presidential primary, shall cause to be printed, on plain white paper or tinted paper, without watermark, at least as many copies of the form of ballot provided for use in each voting precinct as there are voters in the precinct. These copies shall be designated "sample ballot" upon their face and shall be identical to the official ballots used in the election, except as otherwise provided by law. The county clerk or clerk or secretary shall commence to mail one sample ballot, postage prepaid, to each voter

not more than 40 nor less than 15 days before the day fixed by law for the election. The mailing of the sample ballots shall be completed at least 10 whole days before the election.

The county clerk or clerk or secretary shall send notice of the polling place to each voter with the sample ballot. Only official matter shall be sent out with the sample ballot except as provided in Section 10012.

SEC. 17.5. Section 10010.5 is added to the Elections Code, to read:

10010.5. In each county, the county central committee of each qualified political party may supply to its county clerk a party contributor envelope to be included in the mailing of the sample ballot to each of that political party's registered voters in the county. The clerk shall notify the respective county committee of, and the committee shall reimburse the county for, any actual costs incurred by such inclusion. The clerk may, prior to acting pursuant to this section, require the county committee to post a bond to ensure such reimbursement.

Each envelope shall contain the name and address of the contributor and shall contain language which informs the contributor of the manner in which the money received shall be spent. The language on the envelope shall not contain words critical of any other political party.

All funds received by the return of such party contributor envelopes shall be kept separate from all other funds and shall be kept in a fund (account) to be established in each county under a trusteeship consisting of the chairman and treasurer of the county central committee plus a third trustee resident in the respective county to be appointed by the chairman of the state central committee. Any funds which are prohibited under federal law from being used for candidates for federal office shall be further segregated and the portion allocated to candidates shall be disbursed only to candidates for state office.

In the case of the Democratic Party and the Republican Party all such funds received shall, in turn, be paid out in the following manner: one-third to the state central committee of the party, one-third to the county central committee of the party for that county, and one-third divided equally among the nominees of the party to represent congressional, State Senate and Assembly districts located in the county. In the event that the State Senate seat is not up for election, the share for that office shall be allotted equally between the nominees for Congress and the Assembly.

In the event that a district is located only partially within a county, the nominee of the party representing such district shall receive a proportionate share of the money allocated to nominees based on the population of that portion of the district which is located within the county.

Nothing in this section shall be construed to require the county central committee of one party to disburse funds received pursuant

to this section to a state or county central committee or nominee of another party.

SEC. 18. Section 10012.4 of the Elections Code is amended and renumbered to read:

10011. Notwithstanding the provisions of Sections 10007, 10008, 10010, and 10012, sample ballots and candidates' statements need not be mailed to voters who registered after the 30th day before an election, but all such voters shall receive polling place notices and state ballot pamphlets. Each such voter shall receive a notice in bold print that states: "Because you are a late registrant, you are not receiving a sample ballot or candidates' statements."

SEC. 19. Section 10012.5 of the Elections Code is amended and renumbered to read:

10012. Each candidate for nonpartisan elective office in any local agency, including any city, county, city and county or district, may prepare a candidate's statement on an appropriate form provided by the clerk. Such statement may include the name, age and occupation of the candidate and a brief description of no more than 200 words, of the candidate's education and qualifications expressed by the candidate himself; provided, however, that the governing body of such local agency may authorize an increase in the limitations on words for such statement from 200 to 400 words. Such statement shall not include the party affiliation of the candidate, nor membership or activity in partisan political organizations. Such statement shall be filed in the office of the clerk when his nomination papers are returned for filing, if it is for a primary election, or for an election for offices for which there is no primary. Such statement shall be filed in the office of the clerk no later than the 60th day before the election, if it is for an election for which nomination papers are not required to be filed. It may be withdrawn, but not changed, during the period for filing nomination papers and until 5 p.m. of the next working day after the close of the nomination period.

The clerk shall send to each voter together with the sample ballot, a voter's pamphlet which contains the written statements of each candidate that is prepared pursuant to this section. The statement of each candidate shall be printed in type of uniform size and darkness, and with uniform spacing. The clerk shall provide a Spanish translation to those candidates who wish to have one, and shall select a person to provide such translation from the list of approved Spanish language translators and interpreters of the superior court of the county or from an institution accredited by the Western Association of Schools and Colleges.

The local agency may bill each candidate availing himself of these services a sum not greater than the actual prorated costs of printing, handling, and translating the candidate's statement, if any, incurred by the agency as a result of providing this service. Only those charges may be levied with respect to the candidate's statement and each candidate using these services shall be charged the same.

The clerk shall reject any statement, which contains any obscene,

vulgar, profane, scandalous, libelous or defamatory matter, or any language which in any way incites, counsels, promotes or advocates hatred, abuse, violence or hostility toward, or which tends to cast ridicule or shame upon any person or group of persons by reason of sex, race, color, religion or manner of worship, or any language or matter the circulation of which through the mails is prohibited by Congress.

Nothing in this section shall be deemed to make any such statement or the authors thereof free or exempt from any civil or criminal action or penalty because of any false, slanderous or libelous statements offered for printing or contained in the voter's pamphlet.

The governing body of the local agency may adopt regulations to permit each candidate for elective office to prepare separately other materials to be sent to each voter in addition to the sample ballot and the voter's pamphlet. Such regulations may pertain to size, weight, form, physical composition, and content of such other materials and may specify that the cost of handling, packaging and mailing may be borne by the local agency authorizing the same or may be billed in whole or in part to the candidate submitting the materials. Such regulations shall apply equally to all candidates, including incumbents. Before the nominating period opens, the local agency for that election shall determine whether a charge shall be levied against that candidate for the candidate's statement or other materials sent to each voter. Such decision shall not be revoked or modified after the seventh day prior to the opening of the nominating period. A written statement of the regulations with respect to charges for handling, packaging, and mailing shall be provided to each candidate or his representative at the time he picks up his nomination papers.

SEC. 20. Section 10012.6 is amended and renumbered to read:

10013. Each voter's pamphlet prepared pursuant to Section 10012.5 shall contain a statement in the heading of the first page in heavy-faced gothic type, not smaller than 10-point, that (1), the pamphlet does not contain a complete list of candidates and that a complete list of candidates appears on the sample ballot (if any candidate is not listed in the pamphlet); and that (2), each candidate's statement in the pamphlet is volunteered by the candidate, and (if printed at the candidate's expense) is printed at his expense.

SEC. 21. Section 10013 of the Elections Code is repealed.

SEC. 22. Section 10014 of the Elections Code is repealed.

SEC. 23. Section 10015 of the Elections Code is amended and renumbered to read:

10014. When printed all ballots shall be bound in stub books, of such size as the clerk may determine. A record of the number of ballots printed shall be kept by the officer authorizing the printing.

SEC. 24. Section 10016 of the Elections Code is amended and renumbered to read:

10015. Whenever it appears by affidavit of a voter that an error

or omission has occurred in the publication of the name or description of the candidates or in the printing of the ballots, the superior court of the county shall, upon application of the affiant, by order, require the clerk or secretary of the public agency conducting the election to correct the error or to show cause why the error should not be corrected.

SEC. 25. Section 10017 of the Elections Code is repealed.

SEC. 26. Section 10018 of the Elections Code is repealed.

SEC. 27. Section 10019 of the Elections Code is amended and renumbered to read:

10016. In the case of the prevention of an election in any precinct by the loss or destruction of the ballots intended for that precinct, the inspector or other precinct officer for that precinct shall make an affidavit setting forth the fact and transmit it to the Governor. Upon receipt of the affidavit, the Governor may, and upon the application of any candidate for any office to be voted for by the voters of that precinct the Governor shall, order a new election in that precinct.

SEC. 28. Section 10020 of the Elections Code is amended and renumbered to read:

10017. The officer charged with the duty of providing sample ballots for any election at which absent voter ballots may be cast shall cause to be printed on the envelope containing the sample ballot in heavy-faced gothic type, not smaller than 10-point, the following:

Notice: If you find that for any reason you will be unable to vote in person on election day, promptly complete and sign the enclosed application for absent voter's ballot and return to _____ (county clerk or equivalent official, address and phone number). Your application may be submitted not more than _____ days before the day of election but must reach the office of the _____ (county clerk or equivalent official) not less than _____ days before the day of election.

SEC. 29. Chapter 2 (commencing with Section 10200) of Division 7 of the Elections Code is repealed.

SEC. 30. Chapter 2 (commencing with Section 10200) is added to Division 7 of the Elections Code, to read:

CHAPTER 2. FORMS OF BALLOTS

10200. All ballots used in all elections shall be governed by the provisions of this chapter unless otherwise specifically provided.

10200.5. All voting shall be by ballot. There shall be provided at each polling place, at each election at which public officers are to be voted for, but one form of ballot for all candidates for public office, except that for partisan primary elections one form of ballot shall be provided for each qualified political party as well as one form of nonpartisan ballot. At such partisan primary elections each voter not registered as intending to affiliate with any one of the political parties participating in the election shall be furnished only a nonpartisan ballot. The nonpartisan ballot shall contain only the

names of all candidates for nonpartisan offices and measures to be voted for at the primary election. Each voter registered as intending to affiliate with a political party participating in the election shall be furnished only a ballot of the political party with which he is registered and the nonpartisan ballot both of which shall be printed together as one ballot in the form prescribed by Section 10207.

10201. Every ballot shall contain:

(a) The title of each office arranged to conform as nearly as practicable to the plan set forth in this chapter.

(b) The names of all qualified candidates except that:

(1) Instead of the names of candidates for delegate to the national conventions there shall be printed the names of the presidential candidates to whom they are pledged or the names of candidates for chairmen of party national convention delegations.

(2) Instead of the names of candidates for presidential electors there shall be printed in pairs the names of the candidates of the respective parties for President and Vice President of the United States. These names shall appear under the title "President and Vice President."

(c) The titles and summaries of measures submitted to vote of the voters.

10203. Across the top of the ballot shall be printed in heavy-faced gothic capital type not smaller than 48-point, the words "OFFICIAL BALLOT." However, if the ballot is no wider than a single column, the words "OFFICIAL BALLOT" may be as small as 36-point. Beneath this heading, in the case of a partisan primary election, shall be printed in 24-point boldfaced gothic capital type the official party designation or the words "NONPARTISAN BALLOT" as applicable. Beneath the heading line or lines, there shall be printed, in boldface type as large as the width of the ballot makes possible, the number of the congressional, Senate, and Assembly district, the name of the county in which the ballot is to be voted, and the date of the election.

10204. At least three-eighths of an inch below the district designation shall be printed the instructions to voters. The instructions shall begin with the words "INSTRUCTIONS TO VOTERS:" in no smaller than 24-point gothic condensed capital type. Thereafter there shall be printed in 10-point gothic type double leaded such of the following directions as are applicable to the ballot:

"To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice, Court of Appeal; or Associate Justice, Court of Appeal, stamp a cross (+) in the voting square after the word "Yes," to the right of the name of the candidate. To vote against that candidate, stamp a cross (+) in the voting square after the word "No," to the right of the name of that candidate."

"To vote for any other candidate of your selection, stamp a cross in the voting square to the right of the candidate's name. [When justices of the Supreme Court or Court of Appeal do not appear on the ballot, the instructions referring to voting after the word "Yes"

or the word "No" will be deleted and the above sentence shall read: "To vote for a candidate whose name appears on the ballot, stamp a cross (+) in the voting square to the right of the candidate's name.] Where two or more candidates for the same office are to be elected, stamp a cross (+) after the names of all candidates for the office for whom you desire to vote, not to exceed, however, the number of candidates to be elected."

"To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office."

"To vote on any measure, stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

"All distinguishing marks or erasures are forbidden and make the ballot void."

"If you wrongly stamp, tear, or deface this ballot, return it to the precinct board member and obtain another."

"On absent voter ballots mark a cross (+) with pen or pencil."

The instructions to voters shall be separated by a six-point rule from the portion of the ballot which contains the various offices and measures to be voted on.

10205. Additional instructions to voters shall appear on the ballot prior to those provided for in Section 10204 under the following conditions:

(a) In a primary election at which candidates for delegate to national convention are to be voted upon, the instructions shall read:

"To vote for the group of candidates preferring a person whose name appears on the ballot, stamp a cross (+) in the square opposite the name of the person preferred. To vote for a group of candidates not expressing a preference for a particular candidate, stamp a cross (+) in the square opposite the name of the chairman of the group."

(b) In elections when electors of President and Vice President of the United States are to be chosen, there shall be placed upon the ballot, in addition to the instructions to voters as provided in this chapter, an instruction as follows:

"To vote for all of the electors of a party, stamp a cross (+) in the square opposite the names of the presidential and vice presidential candidates of that party. A cross (+) stamped in the square opposite the name of a party and its presidential and vice presidential candidate, is a vote for all of the electors of that party, but for no other candidates." This instruction shall appear immediately before the words: "To vote for a person not on the ballot."

If a group of candidates for electors has been nominated under the provisions of Chapter 3 (commencing at Section 6800) of Division 5, and has under the provisions of Article 1 (commencing at Section 6800) of that chapter designated the names of the candidates for President and Vice President of the United States for whom those candidates have pledged themselves to vote, the instructions to voters shall also contain the following:

"To vote for those electors who have pledged themselves to vote

for a candidate for President and Vice President not supported by any particular party stamp a cross (+) in the square opposite the names of those presidential and vice presidential candidates."

If a group of candidates for electors has been nominated by a party not qualified to participate in the election, the instructions to voters shall also contain the following:

"To vote for those electors who have pledged themselves to vote for a candidate for President and for Vice President of any party not qualified to participate in the election write in the names and party of those presidential and vice presidential candidates in the blank space provided for that purpose."

10206. On the partisan ballot used in a direct primary election, immediately below the instructions to voters, there shall be a box one-half inch high enclosed by a heavy-ruled line the same as the borderline. This box shall be as long as there are columns for the partisan ballot and shall be set directly above these columns. Within the box shall be printed in 24-point boldfaced gothic capital type the words "Partisan Offices."

The same style of box shall appear over the columns of the nonpartisan part of the ballot and within the box in the same style and point size of type shall be printed "Nonpartisan Offices."

10207. There shall be printed on the ballot in parallel columns the following:

(a) The respective offices,

(b) The names of candidates with sufficient blank spaces to allow the voters to write in names not printed on the ballot, and

(c) Whatever measures have been submitted to the voters.

In the case of a ballot which is intended for use in a party primary and which carries both partisan offices and nonpartisan offices, a vertical solid black line shall divide the columns containing partisan offices, on the left, from the columns containing nonpartisan offices, on the right.

The standard width of columns containing partisan and nonpartisan offices shall be three inches but a county clerk may vary the width of such columns up to 10 percent more or less than the three-inch standard. However, the column containing presidential and vice presidential candidates may be as wide as four inches.

Any measures that are to be submitted to the voters shall be printed in one or more parallel columns to the right of the columns containing the names of candidates and shall be of sufficient width to contain the title and summary of each measure. To the right of each title and summary shall be printed, on separate lines, the words "Yes" and "No."

10208. In the right-hand margin of each column light vertical lines shall be printed in such a way as to create a voting square after the name of each candidate for partisan office, nonpartisan office (except for Justice of the Supreme Court or court of appeal), or for chairman of a group of candidates for delegate to a national convention who express no preference for a presidential candidate.

0 1961 35 10 425 264

In the case of Supreme Court or Appellate Justices and in the case of measures submitted to the voters, the lines shall be printed so as to create voting squares to the right of the words "Yes" and "No." The voting squares shall be used by the voters to express their choices as provided for in the instruction to voters.

The standard voting square shall be three-eighths of an inch square but may be up to one-half inch wide. Voting squares for measures may be as tall as is required by the space occupied by the title and summary.

10209. If a candidate changes his or her name within one year of any election, the new name shall not appear upon the ballot unless the change was made by:

(a) Marriage

(b) Decree of any court of competent jurisdiction.

10210. In the case of candidates for partisan office in a general election or in a special election to fill a vacancy in the office of Representative in Congress, State Senator, or Member of the Assembly, immediately to the right of and on the same line as the name of the candidate, or immediately below the name, if there is not sufficient space to the right of the name, there shall be printed in eight-point roman lowercase type the name of the qualified political party with which the candidate is affiliated.

In the case of candidates for President and Vice President, the name of the party shall appear to the right of and equidistant from the pair of names of such candidates.

If for a general election any candidate has received the nomination of any additional party or parties, the name(s) shall be printed to the right of the name of the candidate's own party. Party names of a candidate shall be separated by commas. If a candidate has qualified for the ballot by virtue of an independent nomination, the word "Independent" shall be printed instead of the name of a political party in accordance with the above rules.

10211. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing his nomination papers to which he was elected by vote of the people, or to which he was appointed, in the case of a superior, municipal, or justice court judge; provided, however, that if his term of office expires more than 70 days prior to the general election, and he is not reelected, he may not designate that office on the general election ballot.

(2) If a candidate is a candidate for the same office which he holds at the time of filing his nomination papers, and was elected to that office by a vote of the people, and only in that event, the word "Incumbent" by itself or in addition to the words designating the

elective office the candidate holds as provided for under subdivision (a). If the candidate holds an office other than a judicial office by virtue of appointment he may use the phrase "Appointed Incumbent," but may not use the unmodified word "Incumbent."

(3) No more than three words designating the principal professions, vocations, or occupations of the candidate. For purposes of this section, all California geographical names shall be considered to be one word.

(b) No candidate shall assume a designation which would mislead the voters. Neither the Secretary of State nor any other election official shall accept a designation which would suggest an evaluation of a candidate such as outstanding, leading, expert, virtuous, or eminent.

If upon checking the nomination papers the election official finds the designation to be misleading as specified above, the election official shall notify the candidate by registered mail return receipt requested. The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify him by telephone, and provide an alternate designation. In the event the candidate fails to provide an alternate designation, no designation shall appear after his name.

(c) The designation shall remain the same for all purposes of both primary and general elections unless the candidate, at least 70 days prior to the general election requests in writing a different designation which he is entitled to use at the time of the request.

(d) In all cases words so used shall be printed in eight-point roman uppercase and lowercase type except that if the designation selected is so long that it would conflict with the space requirements of Sections 10207 and 10221, the election official shall use a type size sufficiently smaller to meet these requirements.

10212. At the first elections for Representative in Congress, State Senator, and Assemblyman in each congressional, senatorial, and Assembly district following reapportionment acts of the Legislature redefining the boundaries of the congressional, senatorial, and Assembly districts pursuant to Sections 6 and 27 of Article IV of the Constitution, that candidate who shall be deemed the incumbent in a given district for purposes of the election shall be:

(a) That candidate who is running for the same office which he then holds and who is running for reelection in a district which has the identical boundaries and number as the district from which he was last elected.

(b) In the event there is no candidate to whom the provisions of subdivision (a) apply, the incumbent shall be that candidate who is running for the same office which he then holds and who is running for reelection in a district which has the identical boundaries as the district from which he was last elected, but which has a different number.

(c) In the event there is no candidate to whom the provisions of subdivision (a) or (b) apply, the incumbent shall be that candidate

who is running for the same office which he then holds and who is running for reelection in a district which has the identical number as the district from which he was last elected; provided, however, that a candidate for the office of Member of the Assembly shall be considered the incumbent in such case only if the district bearing the same number is located in the same county as the district which previously bore that number.

(d) In the event there is no candidate to whom the provisions of subdivision (a), (b), or (c) apply, the incumbent shall be that candidate who is running for the same office which he then holds and who is running for reelection in a district which contains some portion of the territory previously contained within the district from which he was last elected; provided, that in a new district which contains portions of the territory of more than one former district the incumbent shall be that candidate the greater portion of the territory of whose former district is included within the new district.

If there is no candidate in a given district to which any of the above provisions apply, the incumbent shall be any person who is a candidate for the same office which he then holds who fulfills the residential requirements of law for candidacy within the district.

10213. The order of precedence of offices on the ballot shall be as listed below for those offices and measures which apply to the election for which this ballot is provided. Beginning in the column to the left:

(a) Under the heading, PRESIDENT AND VICE PRESIDENT:

(1) Nominees of the qualified political parties for President and Vice President.

(b) Under the heading, DELEGATES TO NATIONAL CONVENTION:

(1) Names of the presidential candidates to whom the delegates are pledged.

(2) Names of chairmen of unpledged delegations.

(c) Under the heading, STATE:

(1) Governor

(2) Lieutenant Governor

(3) Secretary of State

(4) Controller

(5) Treasurer

(6) Attorney General

(7) Member, State Board of Equalization

(d) Under the heading, CONGRESSIONAL:

(1) United States Senator

(2) Representative in Congress

(e) Under the heading, STATE LEGISLATURE:

(1) State Senator

(2) Member of the Assembly

(f) Under the heading, COUNTY COMMITTEE:

Members of County Central Committee

(g) Under the heading, JUDICIAL:

(1) Chief Justice of California
(2) Associate Justice of the Supreme Court
(3) Presiding Justice, Court of Appeal
(4) Associate Justice, Court of Appeal
(5) Judge of the Superior Court
(6) Judge of the Municipal Court
(7) Judge of the Justice Court
(8) Marshal
(9) Constable
(h) Under the heading, SCHOOL:
(1) State Superintendent of Public Instruction
(2) County Superintendent of Schools
(3) County Board of Education Members
(4) College District Governing Board Members
(5) Unified District Governing Board Members
(6) High School District Governing Board Members
(7) Elementary District Governing Board Members
(i) Under the heading, COUNTY:
(1) County Supervisor
(2) Other offices in alphabetical order by the title of the office.
(j) Under the heading, CITY:
(1) Mayor
(2) City Councilman
(3) Other offices in alphabetical order by the title of the office.
(k) Under the heading, DISTRICT:

Directors or trustees for each district in alphabetical order according to the name of the district.

(*l*) Under the heading, MEASURES SUBMITTED TO VOTE OF VOTERS and the appropriate heading from subdivisions (a) through (k), above, ballot measures in the order, state through district shown above, and within each jurisdiction, in the order prescribed by the official certifying them for the ballot.

The only exception to the above order of precedence of offices shall be that in the case of county offices the county clerk may place the office of county supervisor after the other county offices in order to make the most efficient use of space on the ballot.

10214. The group of names of candidates for any partisan office or nonpartisan office shall be the same on the ballots of all voters entitled to vote for candidates for that office, except that in partisan primary elections, the names of candidates for nomination to partisan office shall appear only on the ballots of the political party, the nomination of which they seek.

10215. All ballots of the same sort prepared by any county clerk, clerk or secretary of a legislative body, or other person having charge of preparing ballots for the same polling place shall be precisely the same size, arrangement, quality and tint of paper, and kind of type, and shall be printed with black ink of the same tint, so that without the numbers on the stubs it is impossible to distinguish any one of the ballots from the other ballots of the same sort. The names of all

candidates printed upon the ballot shall be in type of the same size and character.

10218. The order in which all state measures which are to be submitted to the voters shall appear upon the ballot is as follows:

(a) Bond measures in the order in which they qualify.

(b) Constitutional amendments in the order determined by the Secretary of State.

(c) Initiative measures in the order in which they qualify.

(d) Referendum measures in the order in which they qualify.

10219. In an election at which state, county, city, or other local measures are submitted to a vote of the voters, all state measures shall be numbered in numerical order, as provided in this chapter or division. All county, city, or other local measures shall be designated by a letter, instead of a figure, printed on the left margin of the square containing the description of the measure, commencing with the letter "A" and continuing in alphabetical order, one letter for each such measure appearing on the ballot.

Where two or more counties or cities submitting measures to the voters are in close proximity, the clerks of such counties or cities may mutually agree to use letter designations for ballot measures that will not conflict or confuse the voter.

10220. In the case of candidates for delegate to national convention, there shall be printed in boldface 12-point, gothic type, across the column above the names of the persons preferred by the groups of candidates for delegates, the words, "For delegates to national convention." The words "Vote for one group only" shall extend to the extreme right-hand margin of the column and over the voting square.

In the case of candidates for President and Vice President, the words "Vote for One Party" shall appear just below the heading "President and Vice President" and shall be printed so as to appear above the voting squares for that office. The heading "President and Vice President" shall be printed in boldface 12-point gothic type and shall be centered above the names of the candidates.

In the case of candidates for Justice of the Supreme Court and court of appeal, within the rectangle provided for each such candidate and immediately above the name of each such candidate, there shall appear the following: "For (designation of judicial office)." There shall be as many such headings as there are candidates for such judicial offices and such a heading shall not apply to more than one such judicial office.

In the case of all other candidates, each group of candidates to be voted on shall be preceded by the designation of the office for which they are running and the words "vote for one" or "vote for two" or more according to the number to be nominated or elected. The designation of the office shall be printed flush with the left-hand margin in boldfaced gothic type not smaller than 10-point. The words, "vote for _____" shall extend to the extreme right-hand margin of the column and over the voting square. The designation

of the office and the directions for voting shall be separated from the candidates by a light line.

10221. The names of the candidates shall be printed on the ballot, without indentation, in roman capital, boldface type not smaller than eight-point, between light lines or rules three-eighths of an inch apart. However, in the case of candidates for President and Vice President, the lines or rules may be as much as five-eighths of an inch apart.

10222. Under the designation of each office shall be printed as many blank spaces, defined by light lines or rules three-eighths of an inch apart, as there are candidates to be nominated or elected to the office.

10223. Each group of names of candidates for a particular office shall be separated from the succeeding group by a three-point rule. Each series of groups shall be headed by the caption "State," "Congressional," "State Legislature," "County," or "Municipal" or other proper general classification, as the case may be, printed in boldfaced gothic capital type, not smaller than 12-point. Each caption shall be separated from the names of the candidates beneath by a two-point line.

10224. The left-hand side of the first column of names on the ballot and the right-hand side of the last column of voting squares on the ballot shall be bordered by a six-point rule. The side edges of the ballot shall be one-half inch outside of the six-point down rule. The binding or stitching of each package of ballots shall be along the top or head of the ballot.

10225. The ballots shall be printed on the same leaf with a stub not over one inch in depth. The stub shall be separated from the ballot by a horizontal perforated line or rule from side to side. Upon this stub shall be printed only the number of the ballot.

10226. On each ballot a horizontal non-solid-ruled line shall extend across the top of the ballot one inch below the horizontal perforated line. The same number appearing on the stub shall be printed above the horizontal non-solid-ruled line within two inches of the left side of the ballot. Above this number shall be printed in parentheses in small type as follows: "(This number shall be torn off by precinct board member and handed to the voter.)". The words "I HAVE VOTED—HAVE YOU?" may also be printed immediately above or below the number.

One-half inch to the right of the ballot number there shall be a short vertical perforated rule or line extending upward from the horizontal non-solid-ruled line to the horizontal perforated line. Immediately above this horizontal non-solid-ruled line shall be printed in boldface lowercase type, at least 12-point in size, and enclosed in parentheses, the following: "Fold ballot to this line leaving top margin exposed."

Above this printed direction and midway between it and the top edge of the ballot shall be printed in boldface uppercase type, at least 12-point in size, with the four middle words underlined or otherwise

made prominent, the following: "Mark crosses (+) on ballot ONLY WITH RUBBER STAMP; never with pen or pencil."

Below this direction and midway between it and the next line shall be printed in boldface uppercase type, at least 12-point in size, enclosed in parentheses and with the first two and last five words underlined or otherwise made prominent, the following: (ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)

10227. The number on each ballot shall be the same as that on the corresponding stub and the ballots and stubs shall be numbered consecutively in each county, or the ballots and stubs may be numbered consecutively within each combination of congressional, senatorial, and Assembly districts in each county. In a partisan primary election, the sequence of numbers on the official ballots and stubs for each party within each county, or within each such political subdivision in each county, shall begin with the number 1.

10228. Except as to the order of names of candidates the ballots shall be printed in substantially the following forms according to the type of election as shown in headings of the sample forms. The first and second examples represent primary election ballots whereas the third and fourth represent general election ballots.

6352 PERFORATED LINE

6352

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP NEVER WITH PEN OR PENCIL

(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)

(Fold ballot to this line, leaving top margin exposed)

OFFICIAL BALLOT

NONPARTISAN BALLOT

18th Congressional, 38th Senatorial, 44th Assembly District, Los Angeles County June 4, 1950

INSTRUCTIONS TO VOTERS:

To vote for a candidate whose name appears on the ballot, stamp a cross (+) in the voting square to the right of the candidate's name.

To vote for a qualified write-in candidate write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure, stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear, or deface this ballot, return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (+) with pen or pencil.

JUDICIAL	
Judge of the Superior Court Office No One — Vote for One	
CHAS. W. FRICKE, Judge of the Superior Court	
Judge of the Superior Court Office No. Two — Vote for One	
SAMUEL R. BLAKE, Judge of the Superior Court	
Judge of the Superior Court Office No Three — Vote for One	
CLARENCE L. KINCAID, Judge of the Superior Court	
Judge of the Superior Court Office No Four — Vote for One	
THOMAS L. AMBROSE, Judge of the Superior Court	
Judge of the Superior Court Office No Five — Vote for One	
CLARENCE M. HANSON, Judge of the Superior Court	
Judge of the Superior Court Office No Six — Vote for One	
ALLEN W. ASHBURN, Judge of the Superior Court	
CHARLES R. MacCOY, Judge Municipal Court, Los Angeles Judicial District	
Judge of the Superior Court Office No Seven — Vote for One	
FREDERICK F. HOUSER, Judge of the Superior Court	
Judge of the Superior Court Office No Eight — Vote for One	
DANIEL N. STEVENS, Judge of the Superior Court	
Judge of the Superior Court Office No Nine — Vote for One	
PHILBRICK McCOY, Judge of the Superior Court	
Judge of the Superior Court Office No Ten — Vote for One	
VICTOR R. HANSEN, Judge of the Superior Court	
Judge of the Superior Court Office No Eleven — Vote for One	
LOUIS H. BURKE, Judge of the Superior Court	
IDA MAY ADAMS, Judge	

COUNTY	
Supervisor Fourth District — Vote for One	
RAYMOND V. DARBY, Supervisor Fourth District, Los Angeles County	
GLENN M. ANDERSON, Business Man	
GRAYDON F. BEERS, Public Relations Counselor	
HAROLD HARBY, Councilman City of Los Angeles	
ARTHUR E. HILL, Insurance Executive	
LEONARD J. McMULLEN, Auditor	
ERNEST A. STEWART, Tax Economist	
KIRK WHITE, Automobile Dealer	
District Attorney — Vote for One	
S. ERNEST ROLL, District Attorney Los Angeles County	
CLAUDE A. WATSON, Attorney at Law	

2—ab 1961

1158

(This number shall be torn off by precinct board member and handed to the voter)

1158

PERFORATED LINE

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP NEVER WITH PEN OR PENCIL.
(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)
(Fold ballot to this line, leaving top margin exposed)

OFFICIAL BALLOT

22d Congressional, 33th Senatorial, 57th Assembly District, Los Angeles County

November 6, 1956

INSTRUCTIONS TO VOTERS:

To vote for all of the electors of a party, stamp a cross (+) in the square opposite the names of the presidential and vice presidential candidates of that party. A cross (+) stamped in the square opposite the name of a party and its presidential and vice presidential candidates, is a vote for all of the electors of that party but for no other candidates. To vote for those electors who have pledged themselves to vote for a candidate for President and for Vice President of any party not qualified to participate in the the election write in the names and party of those presidential and vice presidential candidates in the blank space provided for that purpose.

To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice Court of Appeal; or Associate Justice Court of Appeal stamp a cross (+) in the voting square after the word "Yes," to the right of the name of the candidate. To vote against that candidate, stamp a cross (+) in the voting square after the word "No" to the right of the name of that candidate.

To vote for any other candidate of your selection, stamp a cross (+) in the voting square next to the right of the candidate's name. Where two or more candidates for the same office are to be elected, stamp a cross (+) after the names of all the candidates for that office for whom you desire to vote, not to exceed, however the number of candidates to be elected.

To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure, stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot, return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (+) with pen or pencil.

PRESIDENT AND VICE PRESIDENT

Vote for One Party

ADLAI E. STEVENSON,	for President	Democratic	
ESTES KEFAUVER,	for Vice President		
DWIGHT D. EISENHOWER,	for President	Republican	
RICHARD M. NIXON	for Vice President		
ENOCH A. HOLTWICK,	for President	Prohibition	
EDWIN M. COOPER,	for Vice President		
	for President		
	for Vice President		

CONGRESSIONAL

United States Senator — Vote for One

THOMAS H. KUCHEL, Republican, United States Senator	
RAY COURLEY, Prohibition, Business Man	
RICHARD RICHARDS, Democratic, California State Senator	

Representative in Congress Twenty-second District — Vote for One

JOE HOLT, Republican, United States Congressman	
IRVING GLASBAND, Democratic, Business Executive	

STATE LEGISLATURE

Member of the Assembly Fifty-seventh District — Vote for One

CHARLES J. CONRAD, Republican, Member Assembly 57th District	
CHARLES MANFRED, Democratic, Teacher	

JUDICIAL

For Chief Justice of California

Shall DONALD R. WRIGHT be elected to the office for the term prescribed by law?	YES	
	NO	

For Associate Justice of the Supreme Court

Shall DOUGLAS L. EDMUNDS be elected to the office for the term prescribed by law?	YES	
	NO	

For Associate Justice of the Supreme Court

Shall JOHN W. SHENK be elected to the office for the term prescribed by law?	YES	
	NO	

For Presiding Justice, Court of Appeal, Second Appellate District Division One

Shall PARKER WOOD be elected to the office for the term prescribed by law?	YES	
	NO	

For Associate Justice Court of Appeal, Second Appellate District, Division One

Shall LOUIS C. DRAPEAU be elected to the office for the term prescribed by law?	YES	
	NO	

For Associate Justice Court of Appeal, Second Appellate District Division One

Shall CLEMENT L. DOTY be elected to the office for the term prescribed by law?	YES	
	NO	

Judge of the Superior Court Office No. 26 — Vote for One

JOSEPH L. CALL, Judge of the Municipal Court	
FLETCHER BOWRON, Attorney at Law	

3—ab 1961

MEASURES SUBMITTED TO VOTE OF VOTERS

No.	Measure		
1	FOR THE VETERANS BOND ACT OF 1956. This act provides for a bond issue of five hundred million dollars ($500,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.		
	AGAINST THE VETERANS BOND ACT OF 1956. This act provides for a bond issue of five hundred million dollars ($500,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.		
2	SCHOOL BONDS. Senate Constitutional Amendment No. 11. [illegible]	YES	
		NO	
3	STATE CONSTRUCTION PROGRAM BONDS. Assembly Constitutional Amendment No. 17. [illegible]	YES	
		NO	
4	OIL AND GAS CONSERVATION. Initiative. [illegible]	YES	
		NO	
5	ALCOHOLIC BEVERAGE ESTABLISHMENTS. Senate Constitutional Amendment No. 2. [illegible]	YES	
		NO	
6	CHURCH EXEMPTION PARKING LOTS. Assembly Constitutional Amendment No. 3. [illegible]	YES	
		NO	
7	STATE LEGISLATURE. Assembly Constitutional Amendment No. 60. Changes name of the Assembly of California Legislature to House of Representatives.	YES	
		NO	
8	LEGISLATIVE BUDGET SESSIONS. Senate Constitutional Amendment No. 4. [illegible]	YES	
		NO	
9	BOROUGH FORM OF COUNTY GOVERNMENT. Assembly Constitutional Amendment No. 48. [illegible]	YES	
		NO	
10	STATE CIVIL SERVICE CONTRACT ARCHITECTS AND ENGINEERS. Senate Constitutional Amendment No. 6. [illegible]	YES	
		NO	
11	FRAMING COUNTY CHARTERS. Assembly Constitutional Amendment No. 4. [illegible]	YES	
		NO	
12	STATE INDEBTEDNESS. Senate Constitutional Amendment No. 7. [illegible]	YES	
		NO	
13	REPEALING ALIEN LAND LAW. Repeal of Initiative Act. Submitted by Legislature. [illegible]	YES	
		NO	
14	LEGISLATIVE EMPLOYEES. Assembly Constitutional Amendment No. 8. [illegible]	YES	
		NO	
15	PUBLIC WATER SUPPLIES MUTUAL WATER COMPANIES. Senate Constitutional Amendment No. 10. [illegible]	YES	
		NO	
16	CIVIL AND CRIMINAL APPEALS. Assembly Constitutional Amendment No. 94. [illegible]	YES	
		NO	
17	CONSTITUTIONAL PROVISIONS RELATING TO JUDICIARY. Assembly Constitutional Amendment No. 53. [illegible]	YES	
		NO	
18	INFERIOR COURT JUDGES. Assembly Constitutional Amendment No. 65. [illegible]	YES	
		NO	
19	STATE BOUNDARIES. Senate Constitutional Amendment No. 13. [illegible]	YES	
		NO	

COUNTY QUESTIONS

A	COUNTY BOND PROPOSITION A. Bonds for Juvenile Detention and Placement Facilities. [illegible]	BONDS YES	
		BONDS NO	
B	COUNTY BOND PROPOSITION B. Bonds for the Replacement of County Hospital Facilities. [illegible]	BONDS YES	
		BONDS NO	
C	SPECIAL COUNTY PROPOSITION NO. 1. [illegible]	YES	
		NO	
D	PROPOSED COUNTY CHARTER AMENDMENT NO. 1. [illegible]	YES	
		NO	

LOS ANGELES CITY SPECIAL MUNICIPAL ELECTION

M	SALARY OF MEMBERS OF THE CITY COUNCIL LAST FIXED IN 1948. CITY OF LOS ANGELES CHARTER AMENDMENT M. [illegible]	YES	
		NO	
N	SALARY OF MAYOR LAST FIXED IN 1948. CITY OF LOS ANGELES CHARTER AMENDMENT N. [illegible]	YES	
		NO	
O	SALARY OF CITY ATTORNEY LAST FIXED IN 1948. CITY OF LOS ANGELES CHARTER AMENDMENT O. [illegible]	YES	
		NO	
P	SALARY OF CITY CONTROLLER LAST FIXED IN 1948. CITY OF LOS ANGELES CHARTER AMENDMENT P. [illegible]	YES	
		NO	
Q	CHANGE IN LIMITATION ON AUTHORITY OF DEPARTMENT OF WATER AND POWER TO ISSUE REVENUE BONDS. CITY OF LOS ANGELES CHARTER AMENDMENT Q. [illegible]	YES	
		NO	
R	SOCIAL SECURITY FOR EMPLOYEES OF THE DEPARTMENT OF WATER AND POWER. CITY OF LOS ANGELES CHARTER AMENDMENT R. [illegible]	YES	
		NO	
S	LIMITATION OF HEIGHT OF BUILDINGS BY FLOOR AREA RATIO INSTEAD OF BY EXISTING FIXED HEIGHT LIMIT OF 150 FEET. CITY OF LOS ANGELES CHARTER AMENDMENT S. [illegible]	YES	
		NO	

1154

PERFORATED LINE

(This number shall be torn off by precinct board member and handed to the voter)

1154

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBER STAMP. NEVER WITH PEN OR PENCIL.
(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)
(Fold ballot to this line leaving top margin exposed)

OFFICIAL BALLOT

22d Congressional, 38th Senatorial, 57th Assembly District, Los Angeles County

November 2, 1954

INSTRUCTIONS TO VOTERS:

To vote for a candidate for Chief Justice of California; Associate Justice of the Supreme Court; Presiding Justice, Court of Appeal; or Associate Justice Court of Appeal, stamp a cross (+) in the voting square after the word "Yes," to the right of the name of the candidate. To vote against that candidate stamp a cross (+) in the voting square after the word "No," to the right of the name of that candidate.

To vote for any other candidate of your selection, stamp a cross (+) in the voting square to the right of the candidate's name. Where two or more candidates for the same office are to be elected stamp a cross (+) after the names of all the candidates for that office for whom you desire to vote, not to exceed, however the number of candidates to be elected.

To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (+) with pen or pencil.

STATE

Governor — Vote for One
- GOODWIN J. KNIGHT, Republican — Governor of California
- RICHARD PERRIN GRAVES, Democratic — Governmental Administrator

Lieutenant Governor — Vote for One
- HAROLD J. POWERS, Republican — Lieutenant Governor
- EDWARD R. ROYBAL, Democratic — Member Los Angeles City Council

Secretary of State — Vote for One
- FRANK M. JORDAN, Republican — Secretary of State
- FRANK C. H. STEVENS, Prohibition — Minister
- HORACE V. ALEXANDER, Independent Progressive — Merchant
- DANIEL RAEBURN, Democratic — Newspaper Publisher

Controller — Vote for One
- ROBERT C. KIRKWOOD, Republican — State Controller
- GEORGE D. COLLINS JR., Democratic — Assemblyman 24th District, California Legislature
- FRED R. ROSS, Prohibition

Treasurer — Vote for One
- CHARLES G. JOHNSON, Republican — State Treasurer
- HERBERT S. COHN, Independent Progressive
- GEORGE E. JOHNSON, Democratic — Business Executive

Attorney General — Vote for One
- EDMUND G. (PAT) BROWN, Democratic — Attorney General of California
- EDWIN M. COOPER, Prohibition — Attorney

Member State Board of Equalization, Fourth District — Vote for One
- WILLIAM G. BONELLI, Democratic — Member State Board of Equalization
- ROBERT E. McDAVID, Republican — Certified Public Accountant

CONGRESSIONAL

United States Senator — Vote for One (Short term, ending January 3, 1957)
- THOMAS H. KUCHEL, Republican — United States Senator
- LIONEL M. CERNEY, Independent Progressive — Teacher and Writer
- SAMUEL WILLIAM YORTY, Democratic — Member of United States Congress

Representative in Congress, Twenty second District — Vote for One
- JOE HOLT, Republican — Member of Congress
- WILLIAM M. COSTLEY, Democratic — Attorney at Law

STATE LEGISLATURE

State Senator, Thirty-eighth District — Vote for One
- FRANK NELSON, Prohibition — Radio Broadcaster
- RICHARD RICHARDS, Democratic — Attorney at Law
- MILDRED YOUNGER, Republican — Housewife

Member of the Assembly, Fifty seventh District — Vote for One
- CHARLES J. CONRAD, Republican — Member Assembly 57th District
- CLIFFORD H. MARKER, Democratic — Business Executive

JUDICIAL

For Chief Justice of California
Shall DONALD R. WRIGHT be elected to the office for the term prescribed by law? YES / NO

For Associate Justice of the Supreme Court
Shall DOUGLAS L. EDMONDS be elected to the office for the term prescribed by law? YES / NO

For Associate Justice of the Supreme Court
Shall JOHN W. SHENK be elected to the office for the term prescribed by law? YES / NO

For Presiding Justice, Court of Appeal, Second Appellate District Division One
Shall PARKER WOOD be elected to the office for the term prescribed by law? YES / NO

For Associate Justice Court of Appeal, Second Appellate District Division One
Shall LOUIS C. DRAPEAU be elected to the office for the term prescribed by law? YES / NO

For Associate Justice Court of Appeal, Second Appellate District Division One
Shall CLEMENT L. SHINN be elected to the office for the term prescribed by law? YES / NO

4—ab 1961

MEASURES SUBMITTED TO VOTE OF VOTERS

No.	Measure	Vote
1	FOR THE VETERANS BOND ACT OF 1954. This act provides for a bond issue of one hundred seventy-five million dollars ($175,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes. AGAINST THE VETERANS BOND ACT OF 1954. This act provides for a bond issue of one hundred seventy-five million dollars ($175,000,000) to be used by the Department of Veterans Affairs in assisting California war veterans to acquire farms and homes.	
2	SCHOOL BONDS. Senate Constitutional Amendment No. 1. [illegible]	YES / NO
3	ALCOHOLIC BEVERAGE CONTROL. Senate Constitutional Amendment No. 4. [illegible]	YES / NO
4	AID TO NEEDY AGED. Initiative Constitutional Amendment. [illegible]	YES / NO
5	TAXATION EXEMPTION OF VESSELS. Senate Constitutional Amendment No. 10. [illegible]	YES / NO
6	PAY OF LEGISLATORS. Assembly Constitutional Amendment No. 12. [illegible]	YES / NO
7	LAND TITLES. TORRENS ACT. Amendment of Initiative Act. Authorizes Legislature to amend or repeal the Land Title Law (Torrens Act) adopted by initiative in 1914.	YES / NO
8	TAX EXEMPTION OF COMMERCIAL AND FISHING VESSELS. Senate Constitutional Amendment No. 38. [illegible]	YES / NO
9	CHURCH EXEMPTION PROPERTY UNDER CONSTRUCTION. Assembly Constitutional Amendment No. 84. [illegible]	YES / NO
10	TERMS OF STATE OFFICERS. Assembly Constitutional Amendment No. 1. [illegible]	YES / NO
11	TAXATION EXEMPTION FOR DISABLED VETERANS. Assembly Constitutional Amendment No. 2. [illegible]	YES / NO
12	VOTING ELIGIBILITY. Assembly Constitutional Amendment No. [illegible]	YES / NO
13	VERNON CITY CHARTER. Assembly Constitutional Amendment No. [illegible]	YES / NO
14	COLLEGE EXEMPTION PROPERTY UNDER CONSTRUCTION. Assembly Constitutional Amendment No. 83. [illegible]	YES / NO
15	WELFARE EXEMPTION PROPERTY UNDER CONSTRUCTION. Assembly Constitutional Amendment No. 88. [illegible]	YES / NO
16	WATER RIGHTS OF GOVERNMENT AGENCIES. Senate Constitutional Amendment No. 20. [illegible]	YES / NO
17	STREET AND HIGHWAY FUNDS. VEHICLE PARKING. Assembly Constitutional Amendment No. 28. [illegible]	YES / NO
18	RESIDENT NONCITIZENS PROPERTY OWNERSHIP. Assembly Constitutional Amendment No. 10. [illegible]	YES / NO
19	INFERIOR COURT JUDGES. Assembly Constitutional Amendment No. 87. [illegible]	YES / NO
20	FRAMING COUNTY CHARTERS. Senate Constitutional Amendment No. 27. [illegible]	YES / NO

COUNTY QUESTIONS

	Question	Vote
A	PROPOSITION A. County General Hospital, Osteopathic Division. Shall the County of Los Angeles incur a bonded indebtedness and issue bonds [illegible]	BONDS YES / NO
B	PROPOSITION B. Court and Other County Facilities for Area Administrative Centers. Shall the County of Los Angeles incur a bonded indebtedness and issue bonds [illegible]	BONDS YES / NO
C	PROPOSITION C. County Jail, Wayside Honor Rancho. Shall the County of Los Angeles incur a bonded indebtedness and issue bonds [illegible]	BONDS YES / NO
D	PROPOSED COUNTY CHARTER AMENDMENT NO. 1. [illegible]	YES / NO
E	PROPOSED COUNTY CHARTER AMENDMENT NO. 2. [illegible]	YES / NO
F	PROPOSED COUNTY CHARTER AMENDMENT NO. 3. [illegible]	YES / NO
G	PROPOSED COUNTY CHARTER AMENDMENT NO. 4. [illegible]	YES / NO
H	PROPOSED COUNTY CHARTER AMENDMENT NO. 5. [illegible]	YES / NO

6284 PERFORATED LINE

The number shall be torn off by precinct board member and handed to the voter

6284 PERFORATED LINE

MARK CROSSES (+) ON BALLOT ONLY WITH RUBBED STAMP, NEVER WITH PEN OR PENCIL.
(ABSENTEE BALLOTS MAY BE MARKED WITH PEN AND INK OR PENCIL.)
(Fold ballot to this line leaving top margin exposed)

OFFICIAL BALLOT

REPUBLICAN PARTY

28th Congressional, 38th Senatorial, 57th Assembly District, Los Angeles County

June 2, 1964

INSTRUCTIONS TO VOTERS:

To vote for the group of candidates preferring a person whose name appears on the ballot stamp a cross (+) in the square opposite the name of the person preferred. To vote for a group of candidates not expressing a preference for a particular candidate stamp a cross (+) in the square opposite the name of the chairman of the group.

To vote for a candidate whose name appears on the ballot, stamp a cross (+) in the voting square to the right of the candidate's name. Where two or more candidates for the same office are to be elected, stamp a cross (+) after the names of all candidates for the office for whom you desire to vote, not to exceed, however the number of candidates to be elected.

To vote for a qualified write-in candidate, write the person's name in the blank space provided for that purpose after the names of the other candidates for the same office.

To vote on any measure stamp a cross (+) in the voting square after the word "Yes" or after the word "No."

All distinguishing marks or erasures are forbidden and make the ballot void.

If you wrongly stamp, tear or deface this ballot, return it to a precinct board member and obtain another.

On absent voter ballots mark a cross (+) with pen or pencil.

PARTISAN OFFICES

FOR DELEGATES TO NATIONAL CONVENTION

Vote for One (Group Only)

Candidates Preferring BARRY M. GOLDWATER

Candidates Preferring NELSON A. ROCKEFELLER

Candidates Expressing No Preference William Wilkins (Chairman)

CONGRESSIONAL

United States Senator — Vote for One

GEORGE MURPHY
Business Executive

FRED HALL
Attorney

LELAND M. KAREN
Businessman

Representative in Congress Fifty Seventh District — Vote for One

ALPHONZO BELL
United States Congressman

LEE BOBLE
Publisher

STATE LEGISLATURE

Member of the Assembly Twenty Eighth District — Vote for One

CHARLES J. CONRAD
Member of Assembly
Fifty-thousand District

COUNTY COMMITTEE

Member County Central Committee Fifty Seventh Assembly District — Vote for Seven

MYRL B. SCOTT
Attorney

DUNCAN I. McALPIN
Railroad Executive & Ex-Navy

AL LOVINGTON
Member County Committee

RICHARD E. CULBERTSON
Investment

LENORE F. TEAMANS
Investment

DARRELL (JACK) KEAVER

DENNIS J. YATES
Pharmacist

JACQUELINE (JACK-IE) MARKER

MARTHA I. JAMMEY
Investment

KENNETH MARRIS
Owner Investment Agency

HARRY L. THOMAS, JR.
Printer

GERALD O. WORDEN OG
Corporate Treasurer

PETER T. TATLOR
Member County Committee

FRANK L. FOUCE

RICHARD E. (DICK) CRAVEN
Corporation President

JAMES PATTERSON YOUNG
Attorney at Law

HARRY F. SADOIAN
Electronics Executive

HAROLD E. WHITE
Investment

TED F. THOMAS
Executive Vice President

DAVID M. STAPLES
Aerospace Manager

BARBARA ROSENQUEST
Fashion Consultant Ex

LUCILLE J. BOSTON
Manufacturing Executive

JANET M. BARRETT
Investment

NICHOLAS (NICK) MUSSET
Film Executive

ELIZABETH (BETTY) PERRITT

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NONPARTISAN OFFICES

JUDICIAL

Judge of the Superior Court Office No Three — Vote for One

PHILBRICK McCOY
Judge of the Superior Court

DONALD RAYMOND MIZE III
Attorney at Law

Judge of the Superior Court Office No Five — Vote for One

THOMAS CARL LINDHOLM
Attorney

MELANIE MAJORELL
Attorney

PHILL SILVER
Attorney at Law

JOSEPH A. SPRAMBLE, JR.
Judge Municipal Court

CHARLES H. WOOSMANSEE
Judge Municipal Court
Los Angeles Judicial District

DONALD C. GALLAGHER
Attorney at Law

Judge of the Superior Court Office No Sixteen — Vote for One

ALFRED GITELSON
Judge of the Superior Court

HARRY PRECERSON
Attorney at Law

Judge of the Superior Court Office No Twenty Four — Vote for One

WILLIAM E. McFADDEN
Judge of the Superior Court

CHARLES W. NEWHAM
Attorney at Law

Judge of the Superior Court Office No Twenty Nine — Vote for One

PAUL D. STRADNER
Attorney at Law

VIRGIL VICTOR BECKER
Attorney at Law

FINDLAY A. CARTER
Attorney

LOUIS T. FLETCHER
Judge, Municipal Court

RAYMOND R. ROBERTS
Judge Municipal Court
Los Angeles Judicial District

Judge of the Justice Court Malibu Judicial District — Vote for One

MICHAEL C. COLLINS
Superior Court Clerk

J. LAURENCE E. CARVIN
Attorney at Law

HARVEY M. GEORGE
Attorney

JOHN J. ROSARIO
Attorney at Law

ROBERT O. RICHARDSON
Attorney at Law

COUNTY

Supervisor 5th District — Vote for One

WARREN M. DORN
Supervisor Fifth District

FRANK (ERNIE) BERNARDI
Councilman City of Los Angeles

LYNDON K. FORTER
Politician

CLARENCE A. OAKLEY
Mayor City of Pasadena

District Attorney — Vote for One

VINCENT T. DALEIDEN
Judge of the Superior Court

EVELLE J. YOUNGER
Judge of the Superior Court

MANLEY J. BOWLER
Chief Deputy District Attorney

MEASURES SUBMITTED TO VOTE OF VOTERS

LAS VIRGENES UNIFIED SCHOOL DISTRICT MALIBU TAX RATE ELECTION

Shall the construction of existing classroom tax rate of $4.53 on the Las Virgenes Unified School District for the school years 1964 to 1967 be authorized?	B	YES	
		NO	

10229. If the county clerk of any county finds it necessary in connection with the use of any approved method of vote counting, he may provide for the following changes in the format of ballots in one or more precincts at any election:

(a) Ballots may be bound and padded at the side.

(b) The left and right edge of ballots may be trimmed to the edge of printed material.

(c) A series of punched holes may be provided in the upper right-hand portion of each ballot.

(d) The ballot number may be placed at any place along the top left-hand corner of the ballot.

(e) A cutout section, not to exceed two inches in depth, commencing at the left-hand edge of the far right column of the ballot, may be provided along the top edge of the ballot.

(f) Press perforations may be placed between columns of the ballot, from top to bottom, to permit the folding of the ballot at each perforation.

(g) "Yes" and "No" columns where necessary, may be as narrow as one-quarter inch wide.

(h) The instructions to voters may be placed at the bottom of the ballot instead of at the top of the ballot and an appropriate reference to the location of the instructions may be printed in the upper right portion of the ballot.

10230. If the county clerk determines that due to the number of candidates and measures that must be printed on the ballot the ballot will be larger than may be conveniently handled, the county clerk may provide that a nonpartisan ballot shall be given to each partisan voter, together with his partisan ballot and that the material appearing under the heading "Nonpartisan Offices" on partisan ballots, as well as the heading itself, shall be omitted from the partisan ballots.

If the county clerk so provides, the procedure prescribed for the handling and canvassing of ballots shall be modified to the extent necessary to permit the use of two ballots by partisan voters. The county clerk may, in such case, order the second ballot to be printed on paper of a different tint and assign to those ballots numbers higher than those assigned to the ballots containing partisan offices.

10231. The following rules apply whenever any person who is a candidate for any office believes that some other person with a name which is so similar that it may be confused with his name has filed or will file a nomination paper for the same office:

(a) The candidate may, at the time of filing his nomination paper or within five days after the time for filing nomination papers has expired, file with the county clerk a statement which shall be in substance as follows:

"I _____, believe that some other person, whose name is so similar to mine that it may be confused with mine, has filed or will file a nomination paper for the same office for which I have filed a nomination paper and I therefore request and direct that number _____ be printed with my name on the ballot as a distinguishing mark.

_____
Name

Candidate for the office
of _____ "

(b) The distinguishing mark shall be a number and shall be printed in large boldface type at the left of the name on the ballot.

(c) If two or more candidates for the same office designate the same distinguishing number, the first candidate who filed his nomination papers shall have the number and other candidates who designate the same number may file papers designating other distinguishing numbers.

(d) In addition to the designated number(s) which the county clerk shall place on the ballot when the above conditions are met, he or she shall place on the ballot, immediately following the designation of the office and immediately preceding the names of the candidates to be voted upon, the following warning in boldface type:

"Warning! There are two (or whatever number) candidates for this office with identical names."

This warning shall also be included, in boldface type and in a prominent manner, on any sample ballot, ballot pamphlet, or other mailing sent by the county clerk, prior to the election, to persons eligible to vote for this office.

10232. The ballots shall have a different tint or color for each of the political parties participating in a primary election. The nonpartisan ballot shall have a different color from all the other (or white if all the others are colored).

10233. If two or more officers are to be elected for the same office for different terms, the terms for which each candidate for the office is nominated shall be printed on the ballot as a part of the title of the office. If at a general election an office is to be filled for a full term and also for a vacancy in another term, the list of candidates for the full term shall be placed on the ballot under the designation of the office with the words "Full Term" printed immediately after that designation, and the list of candidates to fill the vacancy shall be placed on the ballot under the designation of the office with the words "Short Term" printed immediately after that designation.

10234. In a municipal election, if the number of candidates for an office is such that all of the names will not fit in one column of reasonable length, a double column may be used and the following provisions shall apply:

(a) The space between the two halves of the double column shall

be less than that between the double column and any other columns on the ballot and the lines separating the columns and the two halves of the double column shall be printed so as to emphasize the fact that the candidates in the double column are running for the same office.

(b) The designation of the office and any other words required to be at the top of a single column shall be printed across the top of the entire double column with no dividing line. The words "Vote for one," "Vote for two" or more, as the case may be, shall be centered over the entire double column and shall be printed below any other words at the top of the double column.

(c) The names of the candidates including the blank space or spaces necessary to permit the voter to write in the names of persons not printed on the ballot shall be apportioned as equally as possible between the two columns. The odd space, if any, shall be included in the left-hand column.

(d) The double column shall be used for no more than one office and for no more than one term for any office.

(e) The order of names and blank spaces in the double column shall be the same as would apply to a single column with the left-hand side of the double column taken first.

SEC. 31. Section 14427 of the Elections Code is amended to read:

14427. If a voter spoils or defaces a ballot, he shall at once return it to the ballot clerk and receive another.

SEC. 32. Section 15402 of the Elections Code is amended to read:

15402. The names of the candidates and the respective offices shall be printed on the ballot in parallel columns which shall be no less than 2½ inches wide and may be as wide as 3½ inches, except that the columns containing presidential and vice-presidential candidates may be as wide as four inches.

SEC. 33. Section 15711 of the Elections Code is amended to read:

15711. The ballot shall contain the same material as to candidates and measures, and shall be printed in the same order as provided for paper ballots, and may be arranged in parallel columns on one or more ballot cards as required, except that the column in which the voter marks his choices may be at the left of the names of candidates and the designation of measures. If there are a greater number of candidates for an office or for a party nomination for an office than the number whose names can be placed on one pair of facing ballot pages, a series of overlaying pages printed only on the same, single side shall be used and the ballot shall be clearly marked to indicate that the list of candidates for such office is continued on the following page or pages. If the names of candidates for such office are not required to be rotated, they shall be rotated by groups of candidates in such manner that the name of each candidate shall appear on each page of the ballot in approximately the same number of precincts as the names of all other candidates. Space shall be provided on the ballot or on a separate write-in ballot to permit voters to write in names not printed on the ballot when authorized by law. The size of type and the spacing of the material may be varied to suit the

conditions imposed by the use of ballot cards, provided the type on the ballot cards, when enlarged by a magnifying device on the marking device provided at the polling place, shall appear to the voter as approximately equal in size to that on paper ballots. The statement of measure submitted to the voters may be abbreviated if necessary on the ballot, provided there is displayed in each voting booth the verbatim statement on each measure as it appears on paper ballots. Abbreviation of matters to be voted on throughout the state shall be composed by the Attorney General.

SEC. 34. Article 3 (commencing with Section 22870) of Chapter 2 of Part 2 of Division 12 of the Elections Code is repealed.

SEC. 35. Section 23512.10 of the Elections Code is repealed.

SEC. 36. Section 23515 of the Elections Code is repealed.

SEC. 37. Section 23530.5 of the Elections Code is repealed.

SEC. 38. Section 10010.5 as added to the Elections Code by Section 17.5 of this act shall become operative only if Assembly Bill No. 1597 of the 1975–76 Regular Session of the Legislature and this bill are both chaptered and become effective on or before January 1, 1976, and this bill is chaptered last

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CHAPTER 1159

An act to amend Section 25210.11 of the Government Code, relating to county service areas.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 25210.11 of the Government Code is amended to read:

25210.11. Proceedings for the establishment of a county service area may be instituted by the board of supervisors on its own initiative and shall be instituted by the board when:

(a) A written request therefor, signed by two members of the board, describing the boundaries of the territory which is proposed for inclusion in the area and specifying the type or types of extended county services already provided or to be provided within the area, is filed with the board; or

(b) A written request therefor in the form of a resolution adopted by a majority vote of the governing body of any city in the county is filed with board of supervisors; or

(c) A petition requesting the institution of such proceeding and signed by the requisite number of registered voters is filed with the board. The petition may consist of any number of separate instruments, each of which must comply with all the requirements of a petition, except as to the number of signatures.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the additional net costs, if any, imposed on local government by this act are insignificant in nature and will not cause any financial burden on local government.

CHAPTER 1160

An act to amend Section 5058 of, and to add Section 5076.2 to, the Penal Code, relating to corrections.

[Approved by Governor September 29, 1975. Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 5058 of the Penal Code is amended to read:

5058. (a) The director may prescribe and amend rules and regulations for the administration of the prisons. Such rules and regulations shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The director shall maintain, publish and make available to the general public, a compendium of the rules and regulations promulgated by the director pursuant to this section.

(c) The following exceptions to the procedures specified in this section shall apply to the Department of Corrections: (1) The required notice may be given at any time at least 20 days prior to the adoption, amendment, or repeal of a rule or regulation. (2) The director may specify an effective date that is any time more than 30 days after the rule or regulation is submitted to the Office of Administrative Hearings; provided that (i) it has been filed with the Secretary of State by the effective date and (ii) no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them. (3) The director may rely upon a summary of the information compiled by a hearing officer; provided that the summary and the testimony taken regarding the proposed action shall be retained as part of the public record for at least one year after the adoption, amendment, or repeal.

SEC. 2. Section 5076.2 is added to the Penal Code, to read:

5076.2. (a) Any rules and regulations, including any resolutions and policy statements, promulgated by the Adult Authority, shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government

Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The Adult Authority shall maintain, publish and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

(c) The following exceptions to the procedures specified in this section shall apply to the Adult Authority: (1) The required notice may be given at any time at least 20 days prior to the adoption, amendment, or repeal of a rule or regulation. (2) The chairman may specify an effective date that is any time more than 30 days after the rule or regulation is submitted to the Office of Administrative Hearings; provided that (i) it has been filed with the Secretary of State by the effective date and (ii) no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

SEC. 3. It is the intent of the Legislature that any rules and regulations adopted by the Department of Corrections or the Adult Authority prior to the effective date of this act, shall be reconsidered pursuant to the provisions of the Administrative Procedure Act before July 1, 1976.

CHAPTER 1161

An act to amend Sections 12020 and 12025 of the Penal Code, relating to dangerous weapons.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition or who carries concealed upon his person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison for not less than one year nor more than three years.

(b) Subdivision (a) shall not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank

cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when such is authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and is not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison for not less than one year nor more than three years.

(d) (1) As used in this section a "sawed-off shotgun" means a shotgun having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

SEC. 2. Section 12025 of the Penal Code is amended to read:

12025. (a) Except as otherwise provided in this chapter, any person who carries concealed within any vehicle which is under his control or direction any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor, and if he has been convicted previously of any felony or of any crime made punishable by this chapter, is guilty of a felony punishable by imprisonment in a state prison not to exceed three years.

(b) Any person who carries concealed upon his person any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor, except any person, having been convicted of a crime against the person, property or a narcotics or dangerous drug violation, who carries concealed upon his person any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a public offense and is punishable

by imprisonment in a state prison not to exceed three years, or by imprisonment in a county jail not to exceed six months, or by fine not to exceed five hundred dollars ($500), or by both such fine and imprisonment, and if he has been convicted previously of any felony or of any crime made punishable by this chapter, is guilty of a felony punishable by imprisonment in a state prison not to exceed three years.

(c) Firearms carried openly in belt holsters are not concealed within the meaning of this section, nor are knives which are carried openly in sheaths suspended from the waist of the wearer.

CHAPTER 1162

An act to add Sections 10010.5 and 10012.1 to the Elections Code, relating to sample ballot mailings.

[Approved by Governor September 29, 1975. Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 10012.1 is added to the Elections Code, to read:

10012.1. In each county, the county central committee of each qualified political party may supply to its county clerk a party contributor envelope to be included in the mailing of the sample ballot to each of that political party's registered voters in the county. The clerk shall notify the respective county committee of, and the committee shall reimburse the county for, any actual costs incurred by such inclusion. The clerk may, prior to acting pursuant to this section, require the county committee to post a bond to ensure such reimbursement.

Each envelope shall contain the name and address of the contributor and shall contain language which informs the contributor of the manner in which the money received shall be spent. The language on the envelope shall not contain words critical of any other political party.

All funds received by the return of such party contributor envelopes shall be kept separate from all other funds and shall be kept in a fund (account) to be established in each county under a trusteeship consisting of the chairman and treasurer of the county central committee plus a third trustee resident in the respective county to be appointed by the chairman of the state central committee. Any funds which are prohibited under federal law from being used for candidates for federal office shall be further segregated and the portion allocated to candidates shall be disbursed only to candidates for state office.

In the case of the Democratic Party and the Republican Party all

such funds received shall, in turn, be paid out in the following manner: one-third to the state central committee of the party, one-third to the county central committee of the party for that county, and one-third divided equally among the nominees of the party to represent congressional, State Senate and Assembly districts located in the county. In the event that the State Senate seat is not up for election, the share for that office shall be allotted equally between the nominees for Congress and the Assembly.

In the event that a district is located only partially within a county, the nominee of the party representing such district shall receive a proportionate share of the money allocated to nominees based on the population of that portion of the district which is located within the county.

Nothing in this section shall be construed to require the county central committee of one party to disburse funds received pursuant to this section to a state or county central committee or nominee of another party.

SEC. 2. Section 10010.5 is added to the Elections Code, to read:

10010.5. In each county, the county central committee of each qualified political party may supply to its county clerk a party contributor envelope to be included in the mailing of the sample ballot to each of that political party's registered voters in the county. The clerk shall notify the respective county committee of, and the committee shall reimburse the county for, any actual costs incurred by such inclusion. The clerk may, prior to acting pursuant to this section, require the county committee to post a bond to ensure such reimbursement.

Each envelope shall contain the name and address of the contributor and shall contain language which informs the contributor of the manner in which the money received shall be spent. The language on the envelope shall not contain words critical of any other political party.

All funds received by the return of such party contributor envelopes shall be kept separate from all other funds and shall be kept in a fund (account) to be established in each county under a trusteeship consisting of the chairman and treasurer of the county central committee plus a third trustee resident in the respective county to be appointed by the chairman of the state central committee. Any funds which are prohibited under federal law from being used for candidates for federal office shall be further segregated and the portion allocated to candidates shall be disbursed only to candidates for state office.

In the case of the Democratic Party and the Republican Party all such funds received shall, in turn, be paid out in the following manner: one-third to the state central committee of the party, one-third to the county central committee of the party for that county, and one-third divided equally among the nominees of the party to represent congressional, State Senate and Assembly districts located in the county. In the event that the State Senate seat is not

up for election, the share for that office shall be allotted equally between the nominees for Congress and the Assembly.

In the event that a district is located only partially within a county, the nominee of the party representing such district shall receive a proportionate share of the money allocated to nominees based on the population of that portion of the district which is located within the county.

Nothing in this section shall be construed to require the county central committee of one party to disburse funds received pursuant to this section to a state or county central committee or nominee of another party.

SEC. 3. Section 10010.5 as added to the Elections Code by Section 2 of this act shall become operative only if Assembly Bill No. 1961 of the 1975–76 Regular Session of the Legislature and this bill are both chaptered and become effective on or before January 1, 1976, in which case Section 1 of this act shall not become operative. Therefore, Section 1 of this act, adding Section 10012.1 to the Elections Code, shall not become operative if Assembly Bill No. 1961 and this bill are both chaptered and become effective on or before January 1, 1976, in which case Section 2 of this act shall become operative.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act contains a revenue source which may be utilized by local governments to cover the cost of the mandate.

CHAPTER 1163

An act to amend Section 23801 of the Education Code, relating to the California State University and Colleges.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 23801 of the Education Code is amended to read:

23801. A student body organization may be established at any state college or university under the supervision of the college or university officials for the purpose of providing essential activities closely related to, but not normally included as a part of, the regular instructional program of the college or university. Such an organization may also operate a campus store, a cafeteria, and other projects not inconsistent with the purposes of the college or university, and property of the college or university may be leased to such an organization for such purposes.

The trustees may fix fees for voluntary membership in such organization established at a state college or university.

Notwithstanding any provisions of law to the contrary, if a student body organization is established at any state college or university, upon the favorable vote of two-thirds of the students voting in an election held for this purpose, in such manner as the trustees shall prescribe, and open to all regular students enrolled in such college or university, the trustees shall fix a membership fee which shall be required of all regular, limited and summer session students attending such college or university. No fees shall be charged to students registering solely in extension classes.

Such required fee shall be subject to referendum at any time upon the presentation of a petition to the president of the college or university containing the signatures of 20 percent of the regularly enrolled students at such college or university. A successful referendum shall take effect with the beginning of the academic year following that in which the election was held.

Payment of membership fees pursuant to this section shall be a prerequisite to enrollment in the college or university, except that if sufficient funds are available any state college or university student may at his option and subject to the regulations of the trustees establishing standards in that regard, agree to work off the amount of the fee at the prevailing rate of the college or university for student assistants. The trustees may adopt regulations setting standards for determining which students shall be eligible to work off the amount of the fee. No student shall be required to pay student body membership fees in an aggregate amount exceeding twenty dollars ($20) per academic year.

The revenues raised pursuant to this section may, in addition to expenditures for other lawful purposes involved in the operations of the student body organization, be expended to provide for the support of governmental affairs representatives who may be attending upon the State Legislature or upon offices and agencies in the executive branch of the state government.

CHAPTER 1164

An act to amend Section 70 of the Penal Code, relating to deputy registrars of voters.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 70 of the Penal Code is amended to read:

70. Every executive or ministerial officer, employee or appointee of the State of California, county or city therein or political subdivision thereof, who knowingly asks, receives or agrees to receive any emolument, gratuity or reward, or any promise thereof excepting such as may be authorized by law for doing an official act, is guilty of a misdemeanor.

This section shall not be construed to prohibit deputy registrars of voters from receiving compensation when authorized by local ordinance from any candidate, political committee, or statewide political organization for securing the registration of voters.

CHAPTER 1165

An act to amend Section 39601 of, and to add Sections 39615.5, 39616.5, and 39620.7 to, the Health and Safety Code, relating to pollution.

[Approved by Governor September 29, 1975. Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 39601 of the Health and Safety Code is amended to read:

39601. (a) The Legislature hereby finds that it is necessary and essential that the state, in cooperation with the federal government, use all practical means and measures to control and eliminate pollution hazards to the environment. The Legislature further finds and determines that industry within this state utilizes processes and facilities which have significant environmental impact. These processes and facilities shall be modified and supplemented to meet the quality standards established and to be established for the control of environmental pollution. Industry needs and requires new methods to finance the capital outlays required for the devices, equipment and facilities utilized in pollution control if they are to rapidly comply with the quality standards established by the state and federal governments.

(b) The Legislature also finds and declares that the disposal of waste products by such current methods as incineration and landfill pollute the environment by degrading air and water quality. The Legislature further finds that in order to reduce the environmental pollution which currently occurs in connection with the disposal of waste products, there is a need to develop new and alternative processes and facilities which provide for the disposal of such waste products in ways which prevent or reduce environmental degradation. The Legislature also finds that such new and alternative processes and facilities include those which recover resources and

energy from waste products.

(c) The alternate method of financing provided in this division is in the public interest and will promote the health, welfare, and safety of the citizens of the State of California.

SEC. 2. Section 39615.5 is added to the Health and Safety Code, to read:

39615.5. Notwithstanding the provisions of Section 39615, the authority may separately approve financing for projects the purpose of which is to prevent or reduce environmental pollution resulting from the disposal of solid waste, to the extent that separate funding for such projects has been authorized pursuant to Section 39620.7. No such project, or portion thereof, shall be eligible for financing under this division for which, at the time an application is submitted to the authority, financing has been otherwise obtained.

No project shall be eligible for funding pursuant to this section unless the Secretary of the Resources Agency shall certify that there is reasonable assurance of the following:

(a) The project will significantly reduce the types of environmental pollution resulting from currently used methods of disposing of solid waste; and

(b) The project is consistent with any applicable regional, basin, or state plan for environmental protection.

The authority shall reimburse the Resources Agency for the reasonable and necessary costs incurred in making the certification required by this section.

SEC. 3. Section 39616.5 is added to the Health and Safety Code, to read:

39616.5. To the extent that funding has been separately authorized for financing solid waste disposal projects pursuant to Section 39620.7, the authority shall, throughout each calendar quarter, accept separate applications for such projects. Eligible applicants shall be limited to participating parties who propose projects which have been certified as provided in Section 39615.5.

After the close of each calendar quarter the authority shall determine, by resolution, those projects which it proposes to finance pursuant to this section. The financing of such projects shall be determined on the basis of the following priorities:

(a) First priority shall be given to projects utilizing recognized resource recovery or energy conversion processes.

(b) Second priority shall be given to projects utilizing new technologies or processes for resource recovery or energy conversion.

Projects approved for financing pursuant to this section shall not exceed fifty million dollars ($50,000,000) in aggregate for each calendar quarter. However, the authority may at the beginning of any calendar quarter determine by resolution to finance a lesser aggregate amount of projects pursuant to this section during such calendar quarter.

SEC. 4. Section 39620.7. is added to the Health and Safety Code, to read:

39620.7. At such times as the authority desires to issue bonds separately to finance projects for the disposal of solid waste as provided in Sections 39615.5 and 39616.5, it shall adopt a resolution specifying the total amount of such bonds proposed to be issued. The amount of bonds specified in any such resolution shall not exceed two hundred million dollars ($200,000,000) of new debt. Such resolution shall be submitted to the Legislature and such bonds shall be authorized as provided in Section 39620.5. All bonds so authorized shall be used solely to finance solid waste disposal facilities and shall be issued as otherwise provided in this chapter.

CHAPTER 1166

An act to amend Section 23115 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 27, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 23115 of the Vehicle Code is amended to read:

23115. No vehicle loaded with garbage, swill, cans, bottles, wastepapers, ashes, refuse, trash, or rubbish, or any other noisome, nauseous, or offensive matter, or anything being transported to a dump site for disposal shall be driven or moved upon any highway unless the load is totally covered in a manner which will prevent the load or any part of the load from spilling or falling from the vehicle. This section does not prohibit a rubbish vehicle from being without cover while in the process of acquiring its load in circumstances wherein no law, administrative regulation, or local ordinance requires such cover.

This section does not apply to any vehicle engaged in transporting wet waste fruit or vegetable matter, or waste products from a food processing establishment, nor to any highway maintenance vehicle operated by, or operated under contract with, any local authority or the state, and engaged in transporting snow, mud, earthen slide material, rock, portland cement, or asphaltic concrete paving and structural materials, to a dump site for disposal.

SEC. 2. It is the intent of the Legislature in enacting this act to provide the assistance necessary to help overcome the serious problem of spilled litter along highways leading to and from dump sites.

SEC. 3 Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because

the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1167

An act to add Section 20816 to the Government Code, relating to the Public Employees' Retirement System and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 20816 is added to the Government Code, to read:

20816. Notwithstanding any other provisions of this part, when the Governor determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the state would be served, a state member, other than a school member, shall be eligible to receive additional service credit if the following conditions exist:

(a) The member retires on or after July 1, 1975, and before December 31, 1975.

(b) The appointing power, as defined in Government Code Section 18524, transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount he would have received without such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The appointing power shall certify that it is electing to exercise the provisions of this section, pursuant to the Governor's determination, because of impending mandatory transfers, demotions and layoffs, resulting from the curtailment of its services.

The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of his retirement and the date he would be required to be retired because of age.

An appointing power which elects to make the payment prescribed by subdivision (b) shall make such payment with respect to all eligible employees who retire on or after July 1, 1975, and before December 31, 1975.

The retirement allowance of any eligible member who retires

prior to the operative date of this section shall be recalculated by the board to include the service credit available under this section.

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments during the period July 1, 1975, to December 31, 1975.

Any member who qualifies under this section, upon subsequent reentry to the system shall forfeit the service credit acquired under this section.

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

This act must take effect immediately in order that state agencies, such as the Department of Transportation, may at the earliest possible time encourage the retirement of senior employees and thereby avoid the expense, delay, and hardship which will be visited upon state employees if mandatory transfer, layoff or demotion become necessary.

CHAPTER 1168

An act to amend Sections 18375, 18376, and 18377 of the Welfare and Institutions Code, relating to aged persons, and making an appropriation therefor.

[Approved by Governor September 28, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 18375 of the Welfare and Institutions Code is amended to read:

18375. The intent of this chapter is to assist county health agencies to provide preventive health care through public health nursing services to the aged.

SEC. 2. Section 18376 of the Welfare and Institutions Code is amended to read:

18376. The Department of Health may authorize the payment of state funds to defray in part the cost of projects or the continuation of projects under which the county health agency provides a program of scheduled visits by public health nurses to senior citizen housing and center facilities for health consultant services.

The state share of any such project shall not exceed 50 percent of funds expended in connection with that project. County matching funds may be in the form of cash, facilities or services on the basis of a local project plan submitted to and approved by the department.

SEC. 3. Section 18377 of the Welfare and Institutions Code is amended to read:

18377. The Department of Health shall develop and establish guidelines for submission and approval of the county project plans. The department shall give priority to those counties which have demonstrated the ability to provide public health nursing services to the aged.

SEC. 4. There is hereby appropriated from the General Fund in the State Treasury to the State Department of Health the sum of seven hundred fifty thousand dollars ($750,000) for the purposes of Section 18376 of the Welfare and Institutions Code.

CHAPTER 1169

An act to amend Sections 441.3 and 441.5 of the Health and Safety Code, relating to health care facilities.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 441.3 of the Health and Safety Code is amended to read:

441.3. The California Hospital Commission is hereby renamed the California Health Facilities Commission, which shall be an independent state commission. The membership of the commission shall be expanded on and after July 1, 1975, to 15 members. The Governor shall appoint three new members described in subdivision (c) and five new members described in subdivision (e). As vacancies on the commission occur, members shall be appointed with qualifications specified in this section.

The commission shall consist of the following membership:

(a) One member who within the 10 years preceding his initial appointment has had at least five years' experience in the field of health insurance or in the administration of a health care service plan.

(b) One member who is experienced in the management of a comprehensive group-practice prepayment health care service plan registered under Article 2.5 (commencing with Section 12530) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code.

(c) Four members who are executive officers of a health facility or a group of health facilities subject to the provisions of this part, one of whom shall be an executive officer of a nonprofit general acute care hospital or group of nonprofit general acute care hospitals, one of whom shall be an executive officer of an investor-owned general acute care hospital or group of investor-owned general acute care hospitals, one of whom shall be an executive officer of an investor-owned skilled nursing facility or group of skilled nursing facilities, and one of whom shall be an executive officer of a nonprofit

skilled nursing facility or group of nonprofit skilled nursing facilities.

(d) One member who is a physician and surgeon licensed under the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code with at least five years' experience in the practice of medicine in this state.

(e) Eight public members.

SEC. 2. Section 441.5 of the Health and Safety Code is amended to read:

441.5. The members of the commission shall be appointed by the Governor for a term of four years and shall hold office until the appointment and qualification of their successors. Of the members first appointed by the Governor, three shall hold office for four years, two shall hold office for three years, and two shall hold office for two years. Of the eight new members first appointed pursuant to Section 441.3 on and after July 1, 1975, three shall hold office for four years, three shall hold office for three years, and two shall hold office for two years. Thereafter, each member appointed by the Governor shall hold office for four years. In making the first appointments to these offices the Governor shall designate the term to which each such member is appointed.

Vacancies shall be filled by appointment for the unexpired term. Every appointment made by the Governor pursuant to this section shall be subject to the advice and consent of a majority of the members elected to the Senate, except that if a vacancy occurs when the Legislature is not in session, the Governor may issue an interim appointment which shall expire on the last day of the next regular session of the Legislature or upon the appointment of a successor in accord with the provisions of this section, whichever first occurs. The Governor may remove any member of the commission disqualified by reason of Section 441.4, or for neglect of any duty required by law, or for incompetency, or dishonorable conduct.

No member shall be appointed to a position on the commission for more than three consecutive full terms.

CHAPTER 1170

An act to amend Section 7522 of the Business and Professions Code, and to amend Section 12031 of, and to add Section 12033 to, the Penal Code, relating to firearms.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975.]

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

SECTION 1. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), every person who carries a loaded firearm on his person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, or subdivision (a) of Section 830.3, whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this paragraph. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this paragraph.

(2) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(3) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(4) Persons who are using target ranges for the purpose of practice shooting with a firearm, or who are members of shooting clubs while hunting on the premises of such clubs.

(5) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(6) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 of the Penal Code.

(7) Private investigators, private patrol operators, and operators of a private patrol service who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and

Professions Code, while acting within the course and scope of their employment.

(8) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to such section.

(9) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(10) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(11) Uniformed security guards, regularly employed and compensated as such by persons engaged in any lawful business, while actually engaged in protecting and preserving the property of their employers, if they have been issued a certificate pursuant to Section 12033. Such certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his power as a peace officer, and who is employed as such security guard while not on duty as such peace officer.

(12) Employees or agents of a burglar alarm company while responding to an alarm, or such employees or agents, when in uniform, while on duty for the purpose of responding to an alarm. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring local licensing of those persons covered under this paragraph.

(c) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(d) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(e) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(f) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(g) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(h) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or another is in immediate danger and that the carrying of such weapon is necessary for the preservation of such person or property.

(i) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(j) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his place of residence, including any temporary residence or campsite.

SEC. 2. Section 12033 is added to the Penal Code, to read:

12033. The Department of Consumer Affairs may issue a certificate to any person who is regularly employed and compensated by a lawful business as a uniformed security guard, upon notification by the school where the course was completed, that the person has successfully completed a course in the carrying and use of firearms and a course of training in the exercise of the powers of arrest which meet the standards prescribed by the department pursuant to Section 7514.1 of the Business and Professions Code. The department may charge a fee of not more than fifteen dollars ($15) for processing and issuing the certificate.

SEC. 2.5. Section 7522 of the Business and Professions Code is amended to read:

7522. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer/employee relationship, provided that such person at no time carries or uses any deadly weapon in the performance of his or her duties. For purposes of this subdivision, "deadly weapon" is defined to include any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

(b) An officer or employee of the United States of America, or of

this state or a political subdivision thereof, while such officer or employee is engaged in the performance of his official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency, provided such part-time employment does not exceed 50 hours in any calendar month.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.

(e) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(f) An attorney at law in performing his duties as such attorney at law.

(g) A licensed collection agency or an employee thereof while acting within the scope of his employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(i) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(j) Any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

(k) A person engaged solely in the business of securing information about persons or property from public records.

SEC. 3. This act shall become operative January 1, 1977.

CHAPTER 1171

An act to amend Section 31641.4 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 31641.4 of the Government Code is amended to read:

31641.4. A member shall receive credit for employment in public service only for such service as he is not entitled to receive a pension or retirement allowance from such public agency. The service for which he elects to contribute and the fact that no pension or retirement allowance will accrue to such member by virtue of his employment in such public agency must be certified to by an officer of the public agency where he rendered such public service or must be established to the satisfaction of the board.

Notwithstanding any other provision of law, a safety member who receives credit for prior employment in public service, the principal duties of which consisted of active law enforcement or active fire suppression, or active service in the armed services of the United States during time of war or national emergency, shall have his pension or retirement allowance for such service calculated on the same basis as the calculation of the retirement allowance such member would receive as a safety member under Section 31664.

A safety member who entered the service as a peace officer prior to the establishment of the safety membership provisions in his county shall be considered a safety member from his initial hiring date, for the purposes of this section, notwithstanding any other provision of law.

SEC. 2. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 1172

An act to add Section 13510.5 to the Penal Code, relating to peace officers.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 13510.5 is added to the Penal Code, to read:

13510.5. For the purpose of maintaining the level of competence of state law enforcement officers, the commission shall adopt, and may, from time to time amend, rules establishing minimum standards for training of peace officers as defined in subdivisions (b), (d), and (e) of Section 830.2, subdivisions (c), (d), (e), (f), (g), (h), (j), (*l*), and (o) of Section 830.3, Section 830.31, subdivisions (a) (1), (a) (6), and (a) (7) of Section 830.4, and special and narcotic agents as defined in subdivision (a) of Section 830.3. All such rules shall be adopted and amended pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1, Division 3, Title 2 of the Government Code.

CHAPTER 1173

An act to add Article 6 (commencing with Section 1200) to Chapter 3 of Division 2 of the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 29, 1975. Filed with Secretary of State September 29, 1975]

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

SECTION 1. Article 6 (commencing with Section 1200) is added to Chapter 3 of Division 2 of the Fish and Game Code, to read:

Article 6. Cooperative Salmon and Steelhead Rearing Facilities

1200. The department is authorized to enter into agreements with counties, nonprofit groups, private persons, individually or in combination, for the management and operation of rearing facilities for salmon and steelhead. All such agreements shall be in accordance with the policies of the commission and the criteria of the department which govern the operation under such agreements.

The purpose for operating such facilities shall be to provide additional fishing resources and to augment natural runs.

1201. An applicant who wishes to enter into an agreement to operate a rearing facility shall demonstrate, to the satisfaction of the department prior to executing such agreement, such applicant's financial ability to properly operate the rearing facility. The department shall develop and specify the means for an applicant to make such a demonstration.

1202. All fish handled or released under authority of this article are the property of the state and may be taken only after their release into the wild and under the authority of a sport or commercial fishing license.

1203. The release of fish reared in facilities pursuant to this article shall be made in accordance with the policy of the commission.

1204. The department shall fund the agreements provided for in Section 1200 only on a matching basis with the persons or entities who enter into such agreements. Funds appropriated for the purposes of this article shall not be used to purchase equipment or for construction.

The department shall be reimbursed from funds appropriated for the purposes of this article for administrative costs, legal costs, and supervisorial costs relating to the execution and supervision of such agreements by the department.

1205. The department shall, subject to the limitations of appropriate egg sources and funding, make available fish of appropriate size and species to persons or entities who enter into agreements pursuant to this article.

1206. Salmon and steelhead raised pursuant to this article shall be released in streams, rivers, or waters north of Point Conception and upon release shall have unimpeded access to the sea.

SEC. 2. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the Wildlife Restoration Fund to the Department of Fish and Game for the purpose of funding cooperative agreements for management and operation, of rearing facilities for salmon and steelhead made pursuant to Article 6 (commencing with Section 1200) of Chapter 3 of Division 2 of the Fish and Game Code.

CHAPTER 1174

An act to amend Sections 14920 and 14921 of the Government Code, relating to state shipments.

[Approved by Governor September 29, 1975 Filed with Secretary of State September 29, 1975]

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

SECTION 1. Section 14920 of the Government Code is amended to read:

14920. (a) The Department of General Services provides for the specialized consideration of all traffic problems of the state; develops specialized knowledge of rates, tariffs, and traffic problems to the end that all state shipments be accomplished in the most expeditious, economical, and efficient manner possible via carrier or carriers whose drivers and supporting personnel are operating under current collective-bargaining agreements or who are maintaining the prevailing wages, standards and conditions of employment for its driver and supporting personnel employees; insures adequate state representation before administrative rate-setting bodies; disseminates traffic information throughout all state agencies.

(b) In establishing procedures for obtaining commercial moving

services under competitive bid contracts the department shall act in accordance with the following:

Every contract (and any bid specification therefor) hereby authorized and entered into by the state in excess of two thousand five hundred dollars ($2,500), the principal purpose of which is to furnish commercial moving services to relocate state offices, facilities and institutions, shall specify that no contractor performing thereunder shall pay any employee actually engaged in the moving or handling of goods being relocated under such contract less than the prevailing wage rate, except consideration may be given to bids not conforming with these employee cost provisions in areas where no such employee wage standards and conditions are reasonably available. The term "prevailing wage rate," as used in this subdivision, means the rate paid to a majority of workmen engaged in the particular craft, classification or type of work within the locality if a majority of such workmen be paid at a single rate; if there be no single rate being paid to a majority, then the rate being paid the greater number. The determination required by this subdivision of wage rates prevailing in a given area shall be made by the Department of Industrial Relations.

(c) The term "supporting personnel" for the purposes of this chapter shall include all employees of a carrier who directly participate in the actual moving and handling of goods.

The amendments to this section during the 1975–76 Regular Session, shall not apply to any contract, including those that may be renewed periodically, which affects the wage rates of supporting personnel until the end of the renewal period or the end of the contract, whichever first occurs.

SEC. 2. Section 14921 of the Government Code is amended to read:

14921. The director, subject to the State Civil Service Act, shall appoint such personnel as is necessary to perform the following duties:

(a) Watch the movements of all state freight.

(b) Audit all freight and other transportation bills involving state shipments in order to determine the most advantageous and economical shipping rates which can be secured via carrier or carriers whose drivers and supporting personnel are operating under current collective-bargaining agreements or who are maintaining the prevailing wages, standards and conditions of employment for its driver and supporting personnel employees and to determine what refunds may be due the state on completed shipments.

(c) Furnish upon request from any state source the proper routing and tariff description of a given shipment in order to assure the state of the lowest applicable freight charge commensurate with the provisions of Section 14920.

(d) Establish and maintain such files as may be necessary to expedite shipments, secure special movements, trace and recover strayed and delayed shipments, and divert and reconsign shipments.

(e) Perform such other duties as may be necessary to the efficient discharge of the rate control function.

The amendments to this section during the 1975–76 Regular Session, shall not apply to any contract, including those that may be renewed periodically, which affects the wage rates of supporting personnel until the end of the renewal period or the end of the contract, whichever first occurs.

CHAPTER 1175

An act to amend the heading of Chapter 3 (commencing with Section 2600) of, to add Article 1 (commencing with Section 2600) to Chapter 3 of, and to repeal Article 1 (commencing with Section 2600) of Chapter 3 of, Title 1 of Part 3 of the Penal Code, relating to prisoners.

[Approved by Governor September 29, 1975. Filed with Secretary of State September 29, 1975]

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

SECTION 1. The heading of Chapter 3 (commencing with Section 2600) of Title 1 of Part 3 of the Penal Code is amended to read:

CHAPTER 3. CIVIL RIGHTS OF PRISONERS

SEC. 2. Article 1 (commencing with Section 2600) of Chapter 3 of Title 1 of Part 3 of the Penal Code is repealed.

SEC. 3. Article 1 (commencing with Section 2600) is added to Chapter 3 of Title 1 of Part 3 of the Penal Code, to read:

Article 1. Civil Rights

2600. A person sentenced to imprisonment in a state prison may, during any such period of confinement, be deprived of such rights, and only such rights, as is necessary in order to provide for the reasonable security of the institution in which he is confined and for the reasonable protection of the public.

2601. Notwithstanding any other provision of law, each such person shall have the following civil rights:

(a) To inherit, own, sell, or convey real or personal property, including all written and artistic material produced or created by such person during the period of imprisonment; provided that, to the extent authorized in Section 2600, the Department of Corrections may restrict or prohibit sales or conveyances that are made for business purposes.

(b) To correspond, confidentially, with any member of the State

Bar or holder of public office, provided that the prison authorities may open and inspect incoming mail to search for contraband.

(c) To purchase, receive, read, and permit other inmates to read any and all legal materials, newspapers, periodicals, and books accepted for distribution by the United States Post Office, except those which describe the making of any weapon, explosive, poison or destructive device. Nothing in this section shall be construed as limiting the right of prison authorities (1) to open and inspect any and all packages received by an inmate and (2) to establish reasonable restrictions as to the number of newspapers, magazines, and books that the inmate may have in his cell or elsewhere in the prison at one time.

(d) To have personal visits; provided that the department may provide such restrictions as are necessary for the reasonable security of the institution.

(e) To initiate civil actions.

(f) To marry.

(g) To create a power of appointment.

(h) To make a will.

CHAPTER 1176

An act to amend Sections 25703, 28953, 30503, 40162, 50162, 70162, 90402, 96002, 98212, 100131, 101177, 102242, and 103242 of, and to repeal Sections 28954, 30504, 100130.5, 102241, and 103241 of, the Public Utilities Code, relating to eminent domain.

[Became law without Governor's signature September 30, 1975. Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 25703 of the Public Utilities Code is amended to read:

25703. A district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this division. The district, in exercising such power, shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables or poles of any public utility which is required to be moved to a new location.

SEC. 2. Section 28953 of the Public Utilities Code is amended to read:

28953. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. The district, in exercising such power, shall in addition to the damage for the taking, injury, or destruction

of property, also pay the cost, exclusive of betterment and with credit for salvage value, of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables or poles of any public utility which is required to be moved to a new location.

SEC. 3. Section 28954 of the Public Utilities Code is repealed.

SEC. 4. Section 30503 of the Public Utilities Code is amended to read:

30503. The district may exercise the right of eminent domain within the boundaries of the district to take any property necessary or convenient to the exercise of the powers granted in this part.

No such taking or acquisition by the district which would involve the abandonment, removal, relocation or use of property of a railroad corporation, as defined in Section 230 of this code, shall be permitted, unless the Public Utilities Commission, after hearing, shall find and determine that the public interest and necessity require the abandonment, removal, relocation or use of such property and that such taking or acquisition will not unreasonably impair the ability of the railroad corporation involved to provide safe, adequate, economical and efficient service.

SEC. 5. Section 30504 of the Public Utilities Code is repealed.

SEC. 6. Section 40162 of the Public Utilities Code is amended to read:

40162. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. The district in exercising such power shall, in addition to the damage for the taking, injury or destruction of property, also pay the cost of removal, reconstruction or relocation of any structure, railway, mains, pipes, conduits, cables or poles of any public utility which is required to be moved to a new location.

No such taking or acquisition by the district which would involve the abandonment, removal, relocation, or use of property of a railroad corporation, as defined in Section 230 of this code, shall be permitted, unless the Public Utilities Commission, after hearing, shall find and determine that the public interest and necessity require the abandonment, removal, relocation, or use of such property and that such taking or acquisition will not unreasonably impair the ability of the railroad corporation involved to provide safe, adequate, economical, and efficient service.

SEC. 7. Section 50162 of the Public Utilities Code is amended to read:

50162. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. The district, in exercising such power shall, in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, cables, or poles of any public utility or public district which is required to be moved to a new location.

No action in eminent domain to acquire property within any

incorporated city or any county shall be commenced unless the legislative body of the affected city or county has consented to such acquisition by resolution.

SEC. 8. Section 70162 of the Public Utilities Code is amended to read:

70162. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. The district in exercising such power shall, in addition to the damage for the taking, injury or destruction of property, also pay the cost of removal, reconstruction or relocation of any structure, railway, mains, pipes, conduits, cables or poles of any public utility which is required to be moved to a new location.

SEC. 9. Section 90402 of the Public Utilities Code is amended to read:

90402. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this act. The district, in exercising such power shall, in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, cables, or poles of any public utility which is required to be moved to a new location.

No such taking or acquisition by the district which would involve the abandonment, removal, relocation or use of the property of a railroad corporation, as defined in Section 230 of this code, shall be permitted, unless the Public Utilities Commission, after hearing, shall find and determine that the public interest and necessity require the abandonment, removal, relocation or use of such property and that such taking or acquisition will not unreasonably impair the ability of the railroad corporation involved to provide safe, adequate, economical and efficient service.

SEC. 10. Section 96002 of the Public Utilities Code is amended to read:

96002. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. The district, in exercising such power shall, in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, cables or poles of any public utility or public district which is required to be moved to a new location.

No action in eminent domain to acquire property within any incorporated city or any county shall be commenced unless the legislative body of the affected city or county has consented to such acquisition by resolution.

No such taking or acquisition by the district which would involve the abandonment, removal, relocation, or use of property of a railroad corporation, as defined in Section 230 of this code, shall be permitted, unless the Public Utilities Commission, after hearing,

shall find and determine that the public interest and necessity require the abandonment, removal, relocation, or use of such property and that such taking or acquisition will not unreasonably impair the ability of the railroad corporation involved to provide safe, adequate, economical, and efficient service.

SEC. 11. Section 98212 of the Public Utilities Code is amended to read:

98212. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. The district, in exercising such power, in addition to the damage for the taking, injury, or destruction of property, shall also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, cables, or poles of any public utility or public district which is required to be moved to a new location.

SEC. 12. Section 100130.5 of the Public Utilities Code is repealed.

SEC. 13. Section 100131 of the Public Utilities Code is amended to read:

100131. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. The district, in exercising such power, shall in addition to the damages for the taking, injury, or destruction of property, also pay the cost, exclusive of betterment and with credit for salvage value, of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public utility which is required to be moved to a new location.

No taking or acquisition by the district which would involve the abandonment, removal, relocation, or use of the property of a railroad corporation, as defined in Section 230, shall be permitted, unless the Public Utilities Commission, after a hearing, shall find and determine that the public interest and necessity require the abandonment, removal, relocation, or use of such property and that such taking or acquisition will not unreasonably impair the ability of the railroad corporation involved to provide safe, adequate, economical, and efficient service.

SEC. 14. Section 101177 of the Public Utilities Code is amended to read:

101177. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. In the exercise of such power, in addition to the damage for the taking, injury, or destruction of property, the district shall also pay the cost of removal, reconstruction, or relocation of any railways, mains, pipes, conduits, cables, poles, or other structures or facilities of any public utility or public agency which is required to be moved to a new location.

SEC. 15. Section 102241 of the Public Utilities Code is repealed.

SEC. 16. Section 102242 of the Public Utilities Code is amended to read:

102242. The district may exercise the right of eminent domain to

take any property necessary or convenient to the exercise of the powers granted in this part. The district, in exercising such power, shall in addition to the damages for the taking, injury, or destruction of property, also pay the cost, exclusive of betterment and with credit for salvage value, of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public utility which is required to be moved to a new location.

SEC. 17. Section 103241 of the Public Utilities Code is repealed.

SEC. 18. Section 103242 of the Public Utilities Code is amended to read:

103242. The district may exercise the right of eminent domain to take any property necessary or convenient to the exercise of the powers granted in this part. The district, in exercising such power, shall, in addition to the damages for the taking, injury, or destruction of property, also pay the cost, exclusive of betterment and with credit for salvage value, of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables, or poles of any public agency or utility which is required to be moved to a new location.

SEC. 19. This act shall become operative only if Assembly Bill No. 11 is chaptered and becomes effective January 1, 1976, and, in such case, shall become operative at the same time as Assembly Bill No. 11.

CHAPTER 1177

An act to amend 69993 and 70047.5 of, and to add Section 68519 to, the Government Code, relating to court reporters, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 68519 is added to the Government Code, to read:

68519. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in San Mateo, San Joaquin, and Sonoma Counties. Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of any such county and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period;

(2) The fees charged and the fees collected for such transcripts;

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts; and

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

SEC. 2. Section 69993 of the Government Code is amended to read:

69993. In San Joaquin County, the salary paid official reporters of the superior court, shall be deemed for retirement purposes, to include the total of all per diem and transcription fees paid by the county in all matters to all of the reporters of the superior court for all phonographic reporting services, divided by the number of superior court official reporters provided, however, that such amount shall not exceed an equivalent of one thousand one hundred dollars ($1,100) per month.

SEC. 3. Section 70047.5 of the Government Code is amended to read:

70047.5. In Sonoma County, each regular official reporter shall be paid an annual salary of eighteen thousand four hundred dollars ($18,400), which salary shall include payment for his services in reporting proceedings by the grand jury, the coroner and the district attorney. In order that the salary provided for in this section shall remain equitable and competitive, the salary herein provided for shall be adjusted and increased by the same salary adjustment percentage enacted by the county by ordinance for the position entitled legal stenographer.

Reporters pro tempore shall be paid sixty-three dollars ($63) per day for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties.

Regular official reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave and other benefits allowed to employees of the county.

In such county the fee required by Section 70053 shall be ten dollars ($10).

SEC. 4. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are

made for specific counties. Accordingly, this legislation affecting San Joaquin and Sonoma Counties is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in these counties in view of their submitted requests for adjustments in the compensation provided to court reporters in such counties.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act, because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order to allow the provisions of this act to become effective for the 1975–76 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1178

An act to amend Sections 5651 and 5755 of, and to add Sections 5609.5, 5651.5, 5708.5, 5709.3, and 5714.3 to, the Welfare and Institutions Code, relating to mental health.

[Became law without Governor's signature September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 5609.5 is added to the Welfare and Institutions Code, to read:

5609.5. Any county agency other than the community mental health service may provide services pursuant to this part only if such agency has made a specific written agreement with the community mental health service to provide such services.

SEC. 2. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The county Short-Doyle plan shall include the following:

(a) A description of the persons to be served. This shall include the number of persons to be served in each of the following target groups: general mental disorder, children and adolescents, alcoholism, drug abuse, and mentally retarded. Each target group shall be further categorized by age groups.

(b) A description of all the comprehensive direct service programs to be provided to each target group. This shall include the state, county, and private resources providing the services, the cost

of each comprehensive program, and the cost of each major program element within each comprehensive program.

(c) A description of the indirect and supportive services necessary for the operation of the county's mental health program. This shall include consultation and education services available to community agencies and professional personnel and information services to the general public, training research and evaluation. The plan shall also include the cost of each of these services. The drug abuse component of the plan shall also include but not be limited to, elements relating to prevention, detoxification, treatment and referral services, rehabilitation, and coordination of programs and other community services.

(d) A three-year projection of county needs for each target group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each target group, and the estimated cost of developing and acquiring these resources.

(e) A statement indicating which elements of the three-year projection the county expects to accomplish under its plan.

(f) An estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the succeeding fiscal year. This requirement shall not apply to patients for whom county expenditures for services are not reimbursable by the state under this part.

The State Department of Health shall provide the counties, to the extent possible, the information upon which to base this estimate.

No mentally disordered person or person afflicted with alcoholism shall be admitted to a state hospital prior to screening and referral by an agency designated by the county Short-Doyle plan to provide this service.

(g) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(h) A detailed description of the methodology to be used by the county for evaluating the results of the programs and services being provided for each target group. This methodology shall permit program evaluation including the relative cost and effectiveness of alternative forms and patterns of services.

(i) A description of the procedures used to insure citizen and professional involvement in the county's mental health planning process at all stages of its development. Such procedures shall be reviewed and approved by the local mental health advisory board.

This section shall become operative on the same date as Reorganization Plan No. 1 of 1970 becomes operative.

SEC. 2.5. Section 5651 of the Welfare and Institutions Code is amended to read:

5651. The county Short-Doyle plan shall include the following:

(a) A description of the persons to be served. This shall include the number of persons to be served in each of the following target

groups: general mental disorder, children and adolescents, drug abuse, and mentally retarded. Each target group shall be further categorized by age groups.

(b) A description of all the comprehensive direct service programs to be provided to each target group. This shall include the state, county, and private resources providing the services, the cost of each comprehensive program, and the cost of each major program element within each comprehensive program.

(c) A description of the indirect and supportive services necessary for the operation of the county's mental health program. This shall include consultation and education services available to community agencies and professional personnel and information services to the general public, training research and evaluation. The plan shall also include the cost of each of these services. The drug abuse component of the plan shall also include but not be limited to, elements relating to prevention, detoxification, treatment and referral services, rehabilitation, and coordination of programs and other community services.

(d) A three-year projection of county needs for each target group commencing with the fiscal year for which the plan is adopted. This projection shall include a priority listing of the resources required to meet the needs of each target group, and the estimated cost of developing and acquiring these resources.

(e) A statement indicating which elements of the three-year projection the county expects to accomplish under its plan.

(f) An estimate of the county's utilization of the state hospital by numbers of admissions and patient-days for the succeeding fiscal year. This requirement shall not apply to patients for whom county expenditures for services are not reimbursable by the state under this part.

The State Department of Health shall provide the counties, to the extent possible, the information upon which to base this estimate.

No mentally disordered person shall be admitted to a state hospital prior to screening and referral by an agency designated by the county Short-Doyle plan to provide this service.

(g) A detailed presentation of all expected expenditures of county, state, and federal government funds and all anticipated public and private revenues.

(h) A detailed description of the methodology to be used by the county for evaluating the results of the programs and services being provided for each target group. This methodology shall permit program evaluation including the relative cost and effectiveness of alternative forms and patterns of services.

(i) A description of the procedures used to insure citizen and professional involvement in the county's mental health planning process at all stages of its development. Such procedures shall be reviewed and approved by the local mental health advisory board.

SEC. 3. Section 5651.5 is added to the Welfare and Institutions Code, to read:

5651.5. The county Short-Doyle plan shall include and clearly designate the following:

(a) Approved and existing programs.

(b) New and expanded programs that are compatible with the budget for the next fiscal year submitted by the Governor to the Legislature.

(c) New and expanded programs that are not compatible with the budget for the next fiscal year submitted by the Governor to the Legislature. Such new and expanded programs shall be listed in the order of their priority.

(d) Services to be purchased from the state shall be stated in contractual language.

SEC. 4. Section 5708.5 is added to the Welfare and Institutions Code, to read:

5708.5. If any funds are allocated for new programs in categories other than the categories of mental illness, drug abuse, and alcohol, pursuant to a county Short-Doyle plan, two years after the date of approval of the budget for that plan, such funds shall be allocated for programs within the categories of mental illness, drug abuse, and alcohol.

SEC. 4.5. Section 5708.5 is added to the Welfare and Institutions Code, to read:

5708.5. If any funds are allocated for new programs in categories other than the categories of mental illness and drug abuse, pursuant to a county Short-Doyle plan, two years after the date of approval of the budget for that plan, such funds shall be allocated for programs within the categories of mental illness and drug abuse.

SEC. 5. Section 5709.3 is added to the Welfare and Institutions Code, to read:

5709.3. The county may, without additional approval of the state, implement programs approved in the county plan if funds become available for such programs.

SEC. 6. Section 5714.3 is added to the Welfare and Institutions Code, to read:

5714.3. Cost report-data collection budgets for new programs implemented pursuant to subdivision (b) or (c) of Section 5651.5 shall be submitted prior to the submission of claims for such programs.

SEC. 7. Section 5755 of the Welfare and Institutions Code is amended to read:

5755. By October 1 of each year, the State Department of Health shall adopt and submit to the Legislature a three-year state plan for community mental health services. The director shall consult with the California Conference of Local Mental Health Directors and the Citizens Advisory Council in developing the state plan.

The state three-year plan shall contain statewide information for the same items required in a county Short-Doyle plan as described in Section 5651 and, taking into consideration the community mental health needs set forth in the county plans, guidelines relating to

program funding priorities for each fiscal year of the three-year plan.

SEC. 8. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because there are minor savings as well as minor costs in this act which, in the aggregate, do not result in significant identifiable cost changes.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill No. 744 are both chaptered and become effective January 1, 1976, both bills amend Section 5651 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill No. 744, that the amendments to Section 5651 proposed by both bills be given effect and incorporated in Section 5651 in the form set forth in Section 2.5 of this act. Therefore, Section 2.5 of this act shall become operative only if this bill and Senate Bill No. 744 are both chaptered and become effective January 1, 1976, both amend Section 5651, and this bill is chaptered after Senate Bill No. 744, in which case Section 2 of this act shall not become operative.

SEC. 10. Section 4.5 of this act shall become operative only if Senate Bill No. 744 is enacted and in such event Section 4 of this act shall not become operative.

CHAPTER 1179

An act to amend Section 41103 of, and to add Sections 4760, 4761, 4762, 4763, 4764, 4765, and 41103.5 to, the Vehicle Code, relating to offenses, and making an appropriation therefor.

[Approved by Governor September 30, 1975. Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 4760 is added to the Vehicle Code, to read:

4760 The department shall refuse to renew the registration of any vehicle whose registered owner or lessee has been sent or given a notice of violation relating to standing or parking pursuant to paragraph (2) of Section 41103 and has not complied with the provisions of paragraph (2) of Section 41103, unless he pays to the department, at the time he applies for renewal, the full amount of bail for offenses relating to standing or parking which he has failed to deposit as required by law, as shown by records of the department, and the administrative service fee of the department imposed pursuant to Section 4763.

SEC. 2. Section 4761 is added to the Vehicle Code, to read:

4761. The department shall include on each potential registration card issued for use at the time of renewal, or on an accompanying document, an itemization of undeposited bail, showing the amount thereof and the jurisdiction which issued the notice of violation

relating thereto, which the registered owner or lessee is required to pay pursuant to Section 4760.

SEC. 3. Section 4762 is added to the Vehicle Code, to read:

4762. The department shall remit all bail collected pursuant to Section 4760 to each jurisdiction in the amounts due to each jurisdiction according to its unadjudicated notices of violation, and shall inform each jurisdiction of which of its notices have been discharged by deposit of the appropriate amounts of bail.

SEC. 4. Section 4763 is added to the Vehicle Code, to read:

4763. The Department of Motor Vehicles shall include on the potential registration card, or on an accompanying document, of every person who has been sent or given a notice of violation relating to standing or parking pursuant to paragraph (2) of Section 41103 and has not complied with the provisions of paragraph (2) of Section 41103, and shall collect pursuant to Section 4760, at the time registration renewal is applied for, a fee which shall be an amount, as determined by the department, that is sufficient (together with other such fees) to provide a total amount equal to its actual costs of administering the provisions of Sections 4760, 4761, 4762, 4764, 4765, and 41103.5, and the costs incurred by the Department of the California Highway Patrol in enforcing provisions of law relating to registration requirements that have been violated by a person whose vehicle the Department of Motor Vehicles has refused to register because he has not paid to the Department of Motor Vehicles the full amount of bail for parking offenses, as required pursuant to Section 4760, or the fee specified in this section.

SEC. 5. Section 4764 is added to the Vehicle Code, to read:

4764. Whenever a vehicle is transferred or not renewed for two renewal periods and the former registered owner or lessee of such vehicle owes bail for a notice of violation relating to standing or parking, the department shall notify each jurisdiction of such fact and is not required thereafter to attempt collection of such undeposited bail.

SEC. 6. Section 4765 is added to the Vehicle Code, to read:

4765. No exemption from the payment of any fee imposed by this code shall be deemed to constitute an exemption from the obligation of a registered owner or lessee to pay the full amount of bail pursuant to Section 4760.

SEC. 7. Section 41103 of the Vehicle Code is amended to read:

41103. The method of giving notice for the purposes of the provisions of Section 41102 is as follows:

(1) During the time of the violation a notice thereof shall be securely attached to the vehicle setting forth the violation including reference to the section of this code or of such ordinance so violated, the approximate time thereof and the location where such violation occurred and fixing a time and place for appearance by the registered owner or the lessee or renter in answer to such notice.

Such notice shall be attached to such vehicle either on the steering post or front door handle thereof or in such other conspicuous place

upon the vehicle as to be easily observed by the person in charge of such vehicle upon his return thereto.

(2) Before any warrant for the arrest of a resident of this state shall issue following the filing of a complaint charging such a violation, a notice of the violation shall be given to the person so charged. Such notice shall contain the information required in paragraph (1) above and shall also inform such registered owner or the lessee or renter that unless he appears in the court to be designated in such notice within 10 days after service of such notice and answers such charge, or completes and files an affidavit of nonownership, the renewal of his registration is contingent upon his compliance with the notice of violation and that, failing such compliance, a warrant or citation to appear may be issued against him.

Such notice shall contain or be accompanied by an affidavit of nonownership. In addition to any other required information, such notice shall also provide information as to what constitutes nonownership, information as to the effect of executing such affidavit, and instructions for mailing or returning the affidavit to the court. Upon receipt of evidence satisfactory to the court that the person charged with violating Section 41102 has made a bona fide sale or transfer of the vehicle and has delivered possession thereof to the purchaser prior to the date of the alleged violation, the court shall obtain verification from the department that the person charged has complied with the requirements of subdivision (a) or (b) of Section 5602, and, if the person has complied with subdivision (a) or (b) of Section 5602, the charges against the person under Section 41102 shall be dismissed.

Such notice shall be given, either by personal delivery thereof to such owner, lessee or renter, or by deposit in the United States mail of an envelope with postage prepaid which envelope shall contain such notice and shall be addressed to such owner, lessee or renter at his address as shown by the records of the department or the leasing or renting agency. The giving of notice by personal delivery is complete upon delivery of a copy of such notice to such person. The giving of notice by mail is complete upon the expiration of 10 days after the deposit of such notice.

Proof of giving such notice may be made by the certificate of any traffic or police officer or affidavit of any person over 18 years of age naming the person to whom such notice was given and specifying the time, place and manner of the giving thereof.

(3) Before any warrant for the arrest of a nonresident of this state shall issue following the filing of a complaint charging such a violation, a notice of the violation shall be given to the person so charged. Such notice shall contain the information required in paragraph (1) and shall also inform such registered owner or the lessee or renter that unless he appears in the court to be designated in such notice within 10 days after service of such notice and answers such charge, or completes and files an affidavit of nonownership, a warrant or citation to appear will be issued against him.

SEC. 8. Section 41103.5 is added to the Vehicle Code, to read:

41103.5. Whenever any person has for a period of 15 or more days failed to comply with the provisions of paragraph (2) of Section 41103, the magistrate or clerk of the court shall give notice of such fact to the department. Such notice shall be given not more than 30 days after such failure to appear. Whenever thereafter the case, in which the notice of violation was given pursuant to paragraph (2) of Section 41103, is adjudicated, the magistrate or clerk of the court hearing the case shall immediately sign and file with the department a certificate to that effect.

SEC. 9. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

SEC. 10. The Department of Motor Vehicles shall report to the Legislature on or before January 1, 1979, regarding its total costs incurred in administering the provisions of this act and its estimate of the amount of the fee imposed pursuant to Section 4763 of the Vehicle Code necessary to recoup such costs.

SEC. 11. This act shall become operative on January 1, 1978.

CHAPTER 1180

An act to add Section 1603.5 to the Health and Safety Code, relating to blood.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 1603.5 is added to the Health and Safety Code, to read:

1603.5. (a) Notwithstanding any other provision of law, every person engaged in the production of blood shall label each container of blood which such person produces with a label, upon which the following designations shall be printed in letters at least one inch high:

(1) If the person giving the blood received no payment for the blood, the designation shall be "volunteer donor."

(2) If the person giving the blood received payment for the blood, the designation shall be "paid donor."

(b) As used in this section:

(1) "Blood" means human whole blood or components of human blood, including plasma, which are prepared from human whole blood by physical, rather than chemical processes, but does not

include blood derivatives manufactured or processed by industrial use.

(2) "Industrial use" means a use of blood in which the blood is modified by physical or chemical means to produce derivatives for therapeutic or pharmaceutic biologics, laboratory reagents, or in vitro diagnostics.

(3) "Payment" means the transfer by a blood bank, or any other party, to any person of money or any other valuable consideration which can be converted to money by the recipient, except that "payment" shall not include any of the following:

(i) Cancellation or refund of the nonreplacement fees or related blood transfusion charges,

(ii) Blood assurance benefits to a person as a result of a blood donation to a donor club or blood assurance program, or

(iii) Time away from employment granted by an employer to an employee in order to donate blood.

(c) Any blood bank receiving blood from a blood bank outside of California shall comply with the labeling requirements of this chapter. Any blood bank receiving such blood may label the blood as "volunteer donor" blood only if the blood bank receives with the blood a certificate from the out-of-state blood bank which states either that the particular shipment of blood was acquired from volunteer donors not receiving payment or that all blood processed by the out-of-state blood bank is acquired from volunteer donors not receiving payment. If the blood bank receiving such blood receives no such certificate with the blood, the blood shall be labeled as "paid donor" blood.

(d) No warranty shall be implied from the fact that any blood is labeled in accordance with the requirements of this section.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1181

An act to amend Section 1440 of, and to add Sections 1440.1, 1440.2, and 1440.3 to, the Probate Code, relating to guardians.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 1440 of the Probate Code is amended to read:

1440. (a) When it appears necessary or convenient, the superior court of the county in which a minor resides or is temporarily domiciled, or in which a nonresident minor has estate, may appoint a guardian for his person and estate, or person or estate. The appointment may be made upon the petition of a relative or other person on behalf of the minor, or on the petition of the minor, if 14 years of age.

(b) The court may issue letters of guardianship over the person or estate, or both, of more than one minor upon the same application, in its discretion. When there is an application for more than one minor, the court may permit a joint or separate bond in such multiple application.

(c) If the petitioner for guardianship, other than for the estate exclusively, is a nonrelative not named in a will as guardian, the petitioner shall serve a copy of the petition upon the State Department of Health and proof of such service shall be shown to the court at the time of the hearing on the petition. In addition, a petition for guardianship, other than for the estate exclusively, by a nonrelative not named in a will as guardian shall contain (1) an allegation that, upon request by an agency referred to in Section 1440.1 for information relating to the investigation referred to therein, the petitioner will promptly submit the information requested; (2) a disclosure of any petition for adoption of the minor who is the subject of the guardianship petition by the petitioner for guardianship regardless of when filed; and (3) an allegation as to whether or not the petitioner's home is licensed as a foster family home.

If the petitioner for guardianship files a petition for adoption of the minor of whom he is seeking guardianship after the guardianship petition is filed, he shall amend the guardianship petition to disclose such fact.

SEC. 2. Section 1440.1 is added to the Probate Code, to read:

1440.1. If a petition states that an adoption petition has been filed, a report with respect to the suitability of the petitioner for guardianship shall be filed with the court by the agency investigating the adoption. In any other case the local agency to whom foster family home licensure has been delegated shall file a report with the court with respect to the petitioner of the same character required to be made with regard to an applicant for foster family home licensure.

SEC. 3. Section 1440.2 is added to the Probate Code, to read:

1440.2. Whenever any report or findings are submitted to the court pursuant to Section 1440.1, a copy of such report or findings, whether favorable or unfavorable, shall be given to the attorney for the petitioner in the proceedings, if the petitioner has an attorney of record, or to the petitioner.

SEC. 4. Section 1440.3 is added to the Probate Code, to read:

1440.3. The provisions of Section 1440, requiring allegations in a petition, and Sections 1440.1 and 1440.2 shall not apply where the Director of Health is appointed guardian or conservator pursuant to Article 7.5 (commencing with Section 416) of Division 1 of the Health and Safety Code.

SEC. 5. Notwithstanding Section 2231 of Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1182

An act to amend Sections 20100 and 20101 of the Government Code, relating to retirement.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 20100 of the Government Code is amended to read:

20100. The board of administration of this system is continued in existence.

It consists of:

(a) One member of the State Personnel Board, selected by and serving at the pleasure of the State Personnel Board.

(b) The Director of Finance.

(c) An official of a life insurer, an officer of a bank, and an elected official of local government, and one person representing the public, appointed by the Governor.

(d) Five members elected under the supervision of the board as follows:

(1) A member elected by the members of the system from the membership thereof;

(2) A member elected by the active state members of the system from the state membership thereof;

(3) A member elected by and from the active local members of the system who are employees of a school district or a county superintendent of schools; and

(4) A member elected by and from the active local members of the system other than those who are employees of a school district or a county superintendent of schools.

(5) A member elected by and from the retired members of the system.

The offices of the three members of the board representing the

public established in subdivision (c) prior to the amendment to this section at the 1975–76 Regular Session shall be abolished on January 15, 1976. The office of the member of the board representing the public under subdivision (c) as provided under such amendment shall be established effective January 16, 1976.

SEC. 2. Section 20101 of the Government Code is amended to read:

20101. The term of office of the members specified in subdivision (c) and subparagraphs (1) and (2) of subdivision (d) of Section 20100, other than the member representing the public, is four years, expiring on January 15th, in the order heretofore fixed by law. The term of the member last elected as provided in subparagraph (3) of subdivision (d) of Section 20100 prior to the amendments to such subparagraph at the 1971 Regular Session shall expire January 15, 1975, and subsequent elections for members under such subparagraph as so amended shall be for the term of four years expiring January 15. The member prescribed in subparagraph (4) of subdivision (d) of Section 20100 shall be elected for a term beginning January 16, 1973, and ending January 15, 1975. The term of such member thereafter shall be four years. The member prescribed in subparagraph (5) of subdivision (d) of Section 20100 shall be elected for a term beginning January 16, 1976, and ending January 15, 1980, and the term of such member thereafter shall be four years. The member representing the public prescribed by subdivision (c) of Section 20100 as amended at the 1975–76 Regular Session of the Legislature shall be appointed for a term commencing January 16, 1976, and ending January 15, 1980. The term of office of the member representing the public thereafter shall be four years. The Governor shall fill a vacancy of the members in subdivision (c) of Section 20100 by the appointment of a person having the requisite qualifications for the vacant membership. Such appointment shall be for the unexpired term. In the event a vacancy occurs during the term of an elected member, it shall be filled at a special election which the board shall cause to be held; provided, the term has 15 months or more to run from the time the vacancy occurs; otherwise, the office shall remain vacant until filled at the next regular election.

CHAPTER 1183

An act to amend Section 10751 of the Education Code and to amend Sections 601 and 601.1 of the Welfare and Institutions Code, relating to school-related problems of minors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 10751 of the Education Code is amended to read:

10751. No teacher, principal, employee, or governing board member of any public, private, or parochial school providing instruction in any of grades kindergarten through 12 shall permit access to any written records concerning any particular pupil enrolled in the school in any class to any person except under judicial process unless the person is one of the following:

(a) Either parent or a guardian of such pupil. Such parent or guardian shall have access to all written records relating to his child or ward maintained by the school, and need only appear in person during regular hours of the schoolday and request to see such records. No written material concerning his child or ward shall be edited or withheld, and the parent or guardian shall be entitled to read such material personally.

(b) A person designated, in writing, by such pupil if he is an adult, or by either parent or a guardian of such pupil if he is a minor.

(c) An officer or employee of a public, private, or parochial school where the pupil attends, has attended, or intends to enroll.

(d) A state or local law enforcement officer, including a probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his duties.

(e) The State Superintendent of Public Instruction, or a member of his staff, or the county superintendent of schools of the county where the pupil attends, has attended, or intends to enroll, or a member of his staff.

(f) An officer or employee of a county agency responsible for protective services to children, as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency.

(g) An officer or employee of any adoption agency licensed by the Department of Social Welfare, as to a minor placed with or under the supervision of that agency, or another minor from the same family as such minor, or as to children in families for which an investigation by the agency is required under Section 226.6 of the Civil Code.

(h) A member of a hearing panel convened pursuant to Section 10761.

(i) A designated member of a school attendance review board as to a pupil referred to that board. All materials and information acquired by a school attendance review board pursuant to this section shall be kept in strict confidence by the members of the board and be used only for the purposes of the board. No member of a school attendance review board who is permitted access to, or informed as to the contents of, a pupil's written record shall permit access to, or release any information as to the contents of, such record to another party without the written consent of the pupil's parent or guardian.

The restrictions imposed by this section are not intended to interfere with the giving of information by school personnel concerning participation in athletics and other school activities, the

winning of scholastic or other honors and awards, and other like information. Notwithstanding the restrictions imposed by this section, a governing board may, in its discretion, provide information to the staff of a college, university, or educational research and development organization or laboratory if such information is necessary to a research project or study conducted, sponsored, or approved by the college, university, or educational research and development organization or laboratory and if no pupil will be identified by name in the information submitted for research. Notwithstanding the restrictions imposed by this section, an employer or potential employer of the pupil may be furnished the age and scholastic record of the pupil and employment recommendations prepared by members of the school staff.

Notwithstanding the restrictions imposed by this section, the names and addresses of pupils, the record of a pupil's daily attendance, the pupil's scholastic record in the form of grades received in school subjects, the names of a pupil's parents or guardian, a pupil's date and place of birth, and the names and addresses of other schools a pupil has attended may be released to an officer or employee of the United States seeking this information in the course of his duties, when the pupil is a veteran of military service with the United States, or an orphan or dependent of such veteran, or an alien. Notwithstanding the restrictions imposed by this section, the names and addresses of pupils may be released to parent-teacher associations of the schools which the pupils attend. Notwithstanding the restrictions imposed by this section, school personnel of a public, private, or parochial high school may furnish the names and addresses of graduating seniors to elected federal, state, county, or district officials, or to a commissioned officer, or his designee, in charge of recruitment for the National Guard or an active or reserve component of the armed forces, as defined pursuant to Section 18540 of the Government Code, seeking information in the course of his recruitment duties.

SEC. 2. Section 601 of the Welfare and Institutions Code is amended to read:

601. (a) Any person under the age of 18 years who persistently or habitually refuses to obey the reasonable and proper orders or directions of his parents, guardian, or custodian, or who is beyond the control of such person, is within the jurisdiction of the juvenile court which may adjudge such person to be a ward of the court.

(b) If a school attendance review board determines that the available public and private services are insufficient or inappropriate to correct the habitual truancy of the minor, or to correct the minor's persistent or habitual refusal to obey the reasonable and proper orders or directions of school authorities, or if the minor fails to respond to directives of a school attendance review board or to services provided, the minor is then within the jurisdiction of the juvenile court which may adjudge such person to be a ward of the court; provided, that it is the intent of the Legislature that no minor

who is adjudged a ward of the court pursuant solely to this subdivision shall be removed from the custody of the parent or guardian except during school hours.

SEC. 4. Section 601.1 of the Welfare and Institutions Code is amended to read:

601.1. Any person under the age of 18 years who persistently or habitually refuses to obey the reasonable and proper orders or directions of school authorities, and is thus beyond the control of such authorities, or who is a habitual truant from school within the meaning of any law of this state, shall, prior to any referral to the juvenile court of the county, be referred to a school attendance review board pursuant to Section 12404 of the Education Code.

SEC. 5. The Superintendent of Public Instruction, with approval of the State Board of Education, shall submit a report to the Legislature on or before July 1, 1976, on the implementation and effectiveness of school attendance review boards in each county, including but not limited to the number and types of referrals to school attendance review boards, requests for petitions to the juvenile court pursuant to Section 12404 of the Education Code, and an evaluation of county compliance with the provisions of Article 9 (commencing with Section 12500) of Chapter 6 of Division 9 of the Education Code.

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

Chapter 1215 of the Statutes of 1974, effective January 1, 1975, established a comprehensive and vitally needed program and related procedures for processing minors with school-related problems, which program included as essential elements school attendance review boards; however, the statutory authorization in Chapter 1215 for designated members of such school attendance review boards to have access to the written records of pupils, which is essential to the entire process, did not become effective because of the application of Section 9605 of the Government Code to Chapters 1215 and 1229 of the Statutes of 1974. This act would, again, grant such essential statutory authorization for such access. In order that such essential authority may be available at the earliest possible time at the commencement of such program, it is necessary that this act take effect immediately.

CHAPTER 1184

An act to amend Section 12403 of the Education Code, relating to school attendance.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 12403 of the Education Code is amended to read:

12403. Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 12401 or Section 12402.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because duties, obligations, or responsibilities imposed on local governmental entities or school districts by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 1185

An act to amend Section 14670.2 of the Government Code, to repeal Chapter 845 of the Statutes of 1971, and to authorize the disposition of specified parcels of real property by the Director of General Services, relating to state lands, and making an appropriation therefor.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 14670.2 of the Government Code is amended to read:

14670.2. Notwithstanding Section 14670, the Director of General Services, with the consent of the State Department of Health, may, in the best interests of the state, let to a public governmental agency, for the purpose of locating and conducting its trainable mentally retarded program, and for locating and conducting a child-care facility, and for a period not to exceed 50 years, real property not exceeding 10 acres located within the grounds of the Napa State Hospital

The lease authorized by this section shall be nonassignable and shall be subject to periodic review every five years. Such review shall be made by the Director of General Services, who shall:

(a) Assure the state the original purposes of the lease are being carried out;

(b) Determine what, if any, adjustment should be made in the terms of the lease.

The lease shall also provide for the establishment of a school building facility by the lessee prior to July 1, 1977. Such facility shall not be established until after the effective date of the act amending this section.

SEC. 1.5. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell, exchange, or lease for current market value and upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state, all or any part of the following real property:

Parcel 1. Approximately 22.88 acres of land near Oak Glen Road, easterly of the community of Yucaipa, being an unused water spring site in San Bernardino County.

Parcel 2. Approximately 2.65 acres of land on Cherokee Road, north of Nevada City, being a portion of Shady Creek Forest Fire Station, in Nevada County.

Parcel 3. Approximately 30 acres of land located at the northwest corner of the intersection of Hospital Road and Avenue 140 being a portion of Porterville State Hospital in Tulare County.

Parcel 4. Approximately one acre of land located on the north side of Main Street, approximately 219 feet west of Imperial Avenue in the City of El Centro in Imperial County.

Parcel 5. Approximately 0.02 of an acre of land located on Jefferson Street in the City of Coalinga in Fresno County.

SEC. 2. Notice of every public auction or bid opening shall be posted on the property to be sold and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated. All parcels in each section of this act shall be exempt from the provisions of Sections 21000 to 21174, inclusive, of the Public Resources Code.

SEC. 3. Any cost or expense incurred in the disposition of any parcel may be reimbursed from the proceeds of such disposition.

SEC. 4. Subject to Section 3 hereof, any moneys received from the disposition of any parcel shall be paid into the General Fund, except for any money received from the disposition of Parcel 5, as described in Section 1, which shall be paid into the Petroleum and Gas Fund. However, if this act and Assembly Bill No. 1392 are both chaptered and become effective on or before January 1, 1976, whether this act is chaptered prior or subsequent to Assembly Bill No. 1392, any money received from the disposition of Parcel 5, as described in Section 1, on or after July 1, 1976, shall be paid into the General Fund.

SEC. 5. As to any property sold pursuant to Section 1 of this act containing 10 acres or less, the Director of General Services may except and reserve in the state all geothermal resources and all deposits of minerals, including oil and gas, below a depth of 500 feet, without surface rights of entry. As to any such property conveyed

containing more than 10 acres, the Director of General Services shall except and reserve in the state all geothermal resources and all deposits of minerals, including oil and gas, together with the right to prospect for, mine and remove such resources and deposits. Such rights to prospect for, mine and remove shall be limited to those areas of the property conveyed which the director determines to be reasonably necessary for the removal of such resources and deposits.

SEC. 6. The Director of General Services is authorized to quitclaim the following parcels of real property to the state's grantors or their heirs:

Parcel 1. Approximately 0.57 acres of land being a portion of the Ramona Forest Fire Station located approximately 8 miles southwest of the community of Ramona off of State Highway 67 in San Diego County.

Parcel 2. Approximately 1.10 acres of land being a portion of Shady Creek Forest Fire Station located approximately 12 miles north of Nevada City just off of State Highway 49 on Cherokee Road, in Nevada County. Each of said parcels was conveyed to the state as a gift to be used for fire suppression stations, subject to the condition that they would revert to the state's grantors in the event the parcels ceased to be used for fire suppression purposes. Inasmuch as each parcel has ceased to be used for such purposes, a quitclaim by the state is necessary to clear title to the grantors or their heirs.

SEC. 7. The Director of General Services, with the approval of the Director of Parks and Recreation, is hereby authorized to exchange the following properties for lands of approximate equal value for the purpose of realigning boundaries.

Parcel 1. Approximately 12.8 acres of land on Empire Grade Road at Henry Cowell State Park in the Bonny Doon area, northeast of Santa Cruz, in Santa Cruz County.

Parcel 2. Approximately 75 acres of land off State Highway 78 at the base of Granite Mountain in Anza-Borrego Desert State Park, in San Diego County.

Parcel 3. Approximately 161 acres of land on the Old Overland Stage Road in the Vallecito Valley area of Anza-Borrego Desert State Park, in San Diego County.

SEC. 8. Chapter 845 of the Statutes of 1971, authorizing the exchange of approximately 3.66 acres, being a portion of San Diego State University, is repealed.

SEC. 9. The Director of General Services, with the approval of the State Public Works Board, may convey to the City of Ione approximately five acres of land at Preston School of Industry upon such terms and conditions as in his opinion may be for the best interest of the state.

CHAPTER 1186

An act to amend Sections 7252, 11005, 11005.6, 32103, 32271, 32291, 32402, and 32405 of, to add Section 32251.5 to, and to repeal Section 7272.3 and Section 7272.5, as added by Chapter 502 and Chapter 1204 of the Statutes of 1974, of, the Revenue and Taxation Code and to amend Sections 2107.1 and 2107.2 of the Streets and Highways Code, relating to taxation, and making an appropriation therefor.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 7252 of the Revenue and Taxation Code is amended to read:

7252. "District", as used in this part, means any transit district, or rapid transit district, authorized to impose transaction and use taxes pursuant to this part.

SEC. 2. Section 7272.3 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 7272.5 of the Revenue and Taxation Code, as added by Chapter 502 of the Statutes of 1974, is repealed.

SEC. 4. Section 7272.5 of the Revenue and Taxation Code, as added by Chapter 1204 of the Statutes of 1974, is repealed.

SEC. 4.5. Section 11005 of the Revenue and Taxation Code is amended to read:

11005. After payment of refunds therefrom and after making the deductions authorized by Section 11003 and reserving such amount as is determined by the Pooled Money Investment Board to be necessary to meet the transfers ordered or proposed to be ordered pursuant to Section 16310 of the Government Code, and after transferring 2.5 percent of the remaining revenue to the Motor Vehicle Account in the Transportation Tax Fund, at least 90 percent of the balance of all motor vehicle license fees and any other money appropriated by law for expenditure pursuant to this section and deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and remaining unexpended therein at the close of business on the last day of the calendar month shall be allocated by the Controller by the 10th day of the following month in the following manner:

(a) Fifty percent thereof shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each city or city and county is that determined by the last federal decennial or special census, or a subsequent census validated by the population research unit of the

Department of Finance or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of a city incorporated subsequent to the last federal census, or census validated by the population research unit of the Department of Finance, or in the case of an inhabited unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the Controller shall ascertain the population of the city, or the annexed territory, by multiplying the number of registered electors therein by three. In the case of uninhabited unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the Controller shall ascertain the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code, or, if no such other estimate or census was made, by multiplying the number of registered electors therein by three two years after the completion of annexation proceedings or at such earlier time as the legislative body may request. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the population of the consolidated city, for the purpose of this subdivision, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit of the Department of Finance.

(b) Fifty percent thereof shall be paid to the counties and cities and counties of the state in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit of the Department of Finance, or as determined by Section 11005.6.

(c) Money disbursed by the Controller pursuant to this section may be used for county or city purposes and may, but need not necessarily, be used for purposes of general interest and benefit to the state.

Population changes based on a federal special census or a subsequent census validated by the Department of Finance shall be accepted by the Controller only if certified to him at the request of the city, city and county, or county for which the census was made and shall become effective on the first day of the month following receipt of such certification.

SEC. 4.6. Section 11005.6 of the Revenue and Taxation Code is amended to read:

11005.6. Any county or city and county which has had a census

taken within the five-year period preceding application under the supervision of either the United States Bureau of the Census or the Department of Finance may apply to the Department of Finance to estimate its population. The department may make the estimate if in the opinion of the department there is available adequate information upon which to base the estimate. Upon completion of the estimate, and if requested to do so by the county or city and county, the Department of Finance shall file a certified copy thereof with the department and the Controller. Such a certification may be made once each calendar year.

All payments under Section 11005 of the Revenue and Taxation Code for any allocation subsequent to the filing of the estimate shall be based upon the population so estimated until such time as a subsequent certification is made by the Department of Finance or a subsequent federal decennial census is made.

Population changes based on a federal special census or a subsequent census or estimate validated by the Department of Finance shall be accepted by the Controller only if certified to him at the request of the city, city and county, or county for which the census or estimate was made and shall become effective on the first day of the month following receipt of such certification.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the county or city and county applying therefor. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

Any population estimate prepared by the Department of Finance pursuant to the provisions of Section 2227 of the Revenue and Taxation Code may be used for all purposes of this section if a written request for certification to the Controller is received from the city or city and county or county within 45 days of completion of the estimate.

SEC. 5. Section 32103 of the Revenue and Taxation Code is amended to read:

32103. Subject to the limitations provided in this article, the board shall fix the total amount of the bond or bonds required of any taxpayer and may increase or reduce the amount at any time. In fixing the total amount, the board may set an amount which is not less than five hundred dollars ($500) and not more than twice the taxpayer's estimated monthly tax for taxpayers reporting monthly, or not more than twice the taxpayer's estimated tax for the tax reporting period for taxpayers reporting for periods longer than one month ascertained in such manner as the board may deem proper.

SEC. 6. Section 32251.5 is added to the Revenue and Taxation Code, to read:

32251.5. Whenever the returns filed by a taxpayer report tax liabilities that average less than one hundred dollars ($100) per

month, the board, if it deems it necessary in order to facilitate the collection of the amount of taxes, may require returns and payment of the amount of taxes for quarterly or annual periods depending on the principal place of business of the taxpayer, the amount of business done by the taxpayer, or the amount of taxes normally paid or payable by the taxpayer.

SEC. 7. Section 32271 of the Revenue and Taxation Code is amended to read:

32271. If the board is dissatisfied with the return or returns filed or amount of tax paid to the state by any taxpayer, it may compute and determine the amount to be paid based upon any information available to it. One or more additional determinations may be made of the amount of tax due for one or for more than one period. The amount of tax so determined shall bear interest at the rate of one-half of 1 percent per month, or fraction thereof, from the 15th day after the close of the period for which the amount of the tax, or any portion thereof, should have been reported until the date of payment. In making a determination, the board may offset overpayment for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments. If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized rules, a penalty of 10 percent of the amount of the determination shall be added, plus interest as above provided. If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized rules, a penalty of 25 percent of the amount of the determination shall be added, plus interest as above provided. The board shall give to the taxpayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in the United States post office, or a mailbox, sub-post office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 7.5. Section 32271 of the Revenue and Taxation Code is amended to read:

32271. If the board is dissatisfied with the return or returns filed or amount of tax paid to the state by any taxpayer, it may compute and determine the amount to be paid based upon any information available to it. One or more additional determinations may be made of the amount of tax due for one or for more than one period. The

amount of tax so determined shall bear interest at the rate of 1 percent per month, or fraction thereof, from the 15th day after the close of the period for which the amount of the tax, or any portion thereof, should have been reported until the date of payment. In making a determination, the board may offset overpayment for a period or periods against underpayments for another period or periods and against the interest and penalties on the underpayments. If any part of the deficiency for which a determination of an additional amount due is made is found to have been occasioned by negligence or intentional disregard of this part or authorized rules, a penalty of 10 percent of the amount of the determination shall be added, plus interest as above provided If any part of the deficiency for which a determination of an additional amount due is made is found to be occasioned by fraud or an intent to evade this part or authorized rules, a penalty of 25 percent of the amount of the determination shall be added, plus interest as above provided. The board shall give to the taxpayer written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the taxpayer at his address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in the United States Post Office, or a mailbox, sub-post office, substation or mail chute or other facility regularly maintained or provided by the United States Postal Service without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of such delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

SEC. 8. Section 32291 of the Revenue and Taxation Code is amended to read:

32291. If any taxpayer fails to make a return required by this part, the board shall make an estimate, based upon any information available to it, for the period or periods with respect to which the taxpayer failed to make a return of all alcoholic beverages sold in this state by him. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the state, adding to the sum thus fixed a penalty equal to 5 percent thereof. One or more determinations may be made of the amount of tax due for one or for more than one period. The amount of tax so determined shall bear interest at the rate of one-half of 1 percent per month, or fraction thereof, from the 15th day of the calendar month following the close of the period for which the amount of the tax, or any portion thereof, should have been returned until the date of payment. In making a determination the board may offset overpayments for a period or periods against underpayments for another period or periods and against interest and penalties on the underpayments. If any part of the deficiency for which a determination is made is due to negligence or intentional disregard of this part or authorized rules,

an additional penalty of 10 percent of the amount of the determination shall be added. If the neglect or refusal of a taxpayer to file a return as required by this part was due to fraud or an intent to evade the tax, there shall be added to the tax a penalty equal to 25 percent thereof in addition to the 5-percent penalty. The board shall give to the taxpayer written notice of the estimate and determination, the notice to be served personally or by mail in the same manner as prescribed for service of notice by Section 32271.

SEC. 8.5. Section 32291 of the Revenue and Taxation Code is amended to read:

32291. If any taxpayer fails to make a return required by this part, the board shall make an estimate, based upon any information available to it, for the period or periods with respect to which the taxpayer failed to make a return of all alcoholic beverages sold in this state by him. Upon the basis of this estimate the board shall compute and determine the amount required to be paid to the state, adding to the sum thus fixed a penalty equal to 5 percent thereof. One or more determinations may be made of the amount of tax due for one or for more than one period. The amount of tax so determined shall bear interest at the rate of 1 percent per month, or fraction thereof, from the 15th day of the calendar month following the close of the period for which the amount of the tax, or any portion thereof, should have been returned until the date of payment. In making a determination the board may offset overpayments for a period or periods against underpayments for another period or periods and against interest and penalties on the underpayments. If any part of the deficiency for which a determination is made is due to negligence or intentional disregard of this part or authorized rules, an additional penalty of 10 percent of the amount of the determination shall be added. If the neglect or refusal of a taxpayer to file a return as required by this part was due to fraud or an intent to evade the tax, there shall be added to the tax a penalty equal to 25 percent thereof in addition to the 5 percent penalty. The board shall give to the taxpayer written notice of the estimate and determination, the notice to be served personally or by mail in the same manner as prescribed for service of notice by Section 32271.

SEC. 9. Section 32402 of the Revenue and Taxation Code is amended to read:

32402. (a) Except as provided in subdivision (b) no refund shall be approved by the board after three years from the 15th day of the calendar month following the close of the period for which the overpayment was made, or, with respect to determinations made under Article 2, 3 or 5 of Chapter 6 of this part, within six months after the determinations become final, whichever period expires the later unless a claim therefor is filed with the board within such period. No credit shall be approved by the board after the expiration of such period unless a claim for credit is filed with the board within such period, or unless the credit relates to a period for which a waiver is given pursuant to Section 32273.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 32273 if a claim therefor is filed with the board before the expiration of the period agreed upon.

(c) Every claim for refund or credit shall be in writing and shall state the specific grounds upon which the claim is founded.

SEC. 10. Section 32405 of the Revenue and Taxation Code is amended to read:

32405. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the rate of one-half of 1 percent per month from the 15th day of the calendar month following the period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 10.5. Section 32405 of the Revenue and Taxation Code is amended to read:

32405. Interest shall be computed, allowed, and paid upon any overpayment of any amount of tax at the rate of 1 percent per month from the 15th day of the calendar month following the period for which the overpayment was made, but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the 15th day of the calendar month following the date upon which the claimant is notified by the board that a claim may be filed or the date upon which the claim is certified to the State Board of Control, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 11. Section 2107.1 of the Streets and Highways Code, as amended by Chapter 1621 of the Statutes of 1967, is amended to read:

2107.1. Any city or city and county may apply to the United States Bureau of Census to determine its population. Upon receipt from the bureau of its determination of population, the city or city and county may, at its option, file a certified copy of the determination with the Controller.

All apportionments made under Section 2107 and all payments under Section 11005 of the Revenue and Taxation Code for any apportionment made beginning with the month following the filing of the determination shall be based upon the population so determined until such time as a subsequent determination is made

by the bureau and a certified copy is filed by the city or city and county with the Controller or a certified copy of a subsequent estimate or census result validated by the Department of Finance is filed with the Controller as provided in Section 2107.2. For the purposes of this section, a written or telegraphic certification from the Director of the Census to the Controller of the determination of population may be accepted by the Controller in lieu of the filing by the city or city and county of the certified copy of the determination.

The cost of any determination by the United States Bureau of Census or by the Department of Finance is a proper charge against the city or city and county applying therefor and shall be paid by it to the bureau or to the department.

This section does not apply to counties.

SEC. 12. Section 2107.2 of the Streets and Highways Code is amended to read:

2107.2. Any city or city and county may apply to the population research unit of the Department of Finance to estimate its population or the population of any inhabited territory annexed to the city subsequent to the last federal decennial or federal census or census validated by the population research unit of the Department of Finance. The department may make the estimate if in the opinion of the department there is available adequate information upon which to base the estimate; provided, however, the department may develop or contract for the development of additional information if, in the opinion of the department, such additional information may make an estimate feasible. Upon completion of the estimate and if requested to do so by the city or city and county, the Department of Finance shall file a certified copy thereof with the Controller.

All apportionments under Section 2107 and all payments under Section 11005 of the Revenue and Taxation Code for any apportionment made beginning with the month following the filing of the estimate shall be based upon the population so estimated until such time as a subsequent estimate is made by the department and a certified copy is filed with the Controller or a subsequent determination is made by the United States Bureau of the Census and a certified copy is filed by the city or city and county with the Controller as provided in Section 2107.1.

The Department of Finance may assess a reasonable charge, not to exceed the actual cost thereof, for the preparation of population estimates pursuant to this section, which is a proper charge against the city or city and county applying therefor. The amount received shall be deposited in the State Treasury as a reimbursement to be credited to the appropriation from which the expenditure is made.

No more than one estimate of its total population shall be filed each fiscal year for each city or city and county.

Any population estimate prepared by the Department of Finance pursuant to the provisions of Section 2227 of the Revenue and Taxation Code may be used for all purposes of this section if a written request for certification to the Controller is received from the city

or city and county within 45 days of completion of the estimate.

SEC. 13. It is the intent of the Legislature, if this bill and Assembly Bill No. 2306 are both chaptered and become effective January 1, 1976, both bills amend Section 32271 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2306, that the amendments to Section 32271 proposed by both bills be given effect and incorporated in Section 32271 in the form set forth in Section 7.5 of this act. Therefore, Section 7.5 of this act shall become operative only if this bill and Assembly Bill No. 2306 are both chaptered and become effective January 1, 1976, both amend Section 32271, and this bill is chaptered after Assembly Bill No. 2306, in which case Section 7 of this act shall not become operative.

SEC. 14. It is the intent of the Legislature, if this bill and Assembly Bill No. 2306 are both chaptered and become effective January 1, 1976, both bills amend Section 32291 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2306, that the amendments to Section 32291 proposed by both bills be given effect and incorporated in Section 32291 in the form set forth in Section 8.5 of this act. Therefore, Section 8.5 of this act shall become operative only if this bill and Assembly Bill No. 2306 are both chaptered and become effective January 1, 1976, both amend Section 32291, and this bill is chaptered after Assembly Bill No. 2306, in which case Section 8 of this act shall not become operative.

SEC. 15. It is the intent of the Legislature, if this bill and Assembly Bill No. 2306 are both chaptered and become effective January 1, 1976, both bills amend Section 32405 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill No. 2306, that the amendments to Section 32405 proposed by both bills be given effect and incorporated in Section 32405 in the form set forth in Section 10.5 of this act. Therefore, Section 10.5 of this act shall become operative only if this bill and Assembly Bill No. 2306 are both chaptered and become effective January 1, 1976, both amend Section 32405, and this bill is chaptered after Assembly Bill No. 2306, in which case Section 10 of this act shall not become operative.

CHAPTER 1187

An act to add and repeal Section 21080.5 to the Public Resources Code, relating to environmental quality.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 21080.5 is added to the Public Resources Code, to read:

21080.5. (a) When the regulatory program of a state agency, board, or commission requires a plan or other written documentation, containing environmental information and complying with the requirements of paragraph (3) of subdivision (b) of this section, to be submitted in support of the issuance to a person, other than a public agency, of a lease, permit, license, certificate, or other entitlement for use, such plan or other written documentation may be submitted in lieu of the environmental impact report required by this division; provided, that the Secretary of the Resources Agency has certified the regulatory program pursuant to this section. A regulatory program certified pursuant to this section is exempt from the provisions of Chapter 3 (commencing with Section 21100) of this division.

(b) In order to qualify for certification pursuant to this section, a regulatory program shall meet all of the following criteria:

(1) The enabling legislation of the regulatory program shall:

(i) Include protection of the environment among its principal purposes.

(ii) Contain authority for the administering agency to promulgate rules and regulations for the protection of the environment, guided by standards set forth in the enabling legislation.

(iii) Require utilization of an interdisciplinary approach which will ensure the integrated use of the natural and social sciences in decisionmaking.

(2) The rules and regulations adopted by the administering agency shall:

(i) Require that a project will not be approved as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the project may have on the environment.

(ii) Include guidelines for the orderly evaluation of projects and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program.

(iii) Require the administering agency to consult with all public agencies which have jurisdiction, by law, with respect to the activity involving the issuance of the lease, permit, license, certificate, or other entitlement for use.

(iv) Require that final action on the issuance of a lease, permit, license, certificate, or other entitlement for use include the written responses of the issuing authority to significant environmental points raised during the evaluation process.

(v) Require the filing of a notice of the issuance of a lease, permit, license, certificate, or other entitlement for use with the Secretary of the Resources Agency. Such notices shall be available for public inspection, and a list of such notices shall be posted on a weekly basis in the office of the Resources Agency. Each such list shall remain

posted for a period of 30 days.

(vi) Require notice of the filing of the plan or other written documentation to be made to the public and to any person who requests, in writing, such notification. The notification shall be made in a manner that will provide the public or any such person with sufficient time to review and comment on such filing.

(3) The plan or other written documentation required by the regulatory program shall:

(i) Include a description of the project with alternatives to the project, and mitigation measures to minimize any significant adverse environmental impact.

(ii) Be available for a reasonable time for review and comment by other public agencies and the general public.

(c) The Secretary of the Resources Agency shall certify a regulatory program which the secretary determines meets all the qualifications for certification set forth in this section, and withdraw certification on determination that the regulatory program no longer meets such qualifications. Certification and withdrawal of certification shall occur only after compliance with Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) Any action or proceeding to attack, review, set aside, void, or annul a determination or decision of a state agency, board, or commission to issue a lease, permit, license, certificate, or other entitlement for use under a regulatory program which has been certified pursuant to this section on the basis that the plan or other written documentation submitted in support of such issuance does not comply with the provisions of this section shall be commenced no later than 30 days from the date of the filing of notice of issuance.

(e) This section shall remain in effect only until January 1, 1978, and as of that date is repealed.

SEC. 2. Section 1 of this act shall not be construed by implication to either confirm or repeal any administrative regulation, and shall not be construed as affecting the authority of the Secretary of the Resources Agency to adopt, amend, or repeal guidelines pursuant to Sections 21083 to 21087, inclusive, of the Public Resources Code.

CHAPTER 1188

An act to amend Sections 99210 and 99231 of, to add Section 99215 to, and to add Division 11.5 (commencing with Section 125000) to, the Public Utilities Code, relating to transportation.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 99210 of the Public Utilities Code is amended to read:

99210. "Operator" means any transit district, included transit district, municipal operator, included municipal operator, or transit development board.

SEC. 2. Section 99215 is added to the Public Utilities Code, to read:

99215. "Transit development board" means a public entity created pursuant to state law and designated in the enabling legislation as a transit development board.

SEC. 3. Section 99231 of the Public Utilities Code, is amended to read:

99231. All operators and city or county governments with responsibility for providing municipal services to a given area collectively may file claims for only such moneys as represents that area's apportionment.

The term "apportionment" has reference to that proportion of the total annual revenue anticipated to be received in the fund that the population of the area bears to the total population of the county.

The term "area" means:

(a) With reference to a transit district, the entire area stated in its enabling legislation or franchise, excluding cities therein which have retained the right to join the district at a later time.

(b) With reference to a transit development board, the entire area stated in its enabling legislation, including the municipalities therein which operated bus systems prior to the creation of the board and subsequently conveyed such systems to the board.

(c) With reference to a county government, the unincorporated area of the county.

(d) With reference to a city government, the corporate area of the city.

(e) Where a transit district, a transit development board, or a county or city, provides public transportation services beyond its boundaries, its area, for purposes of this section, shall also include:

(1) All of that area within one-half mile of any route which extends beyond its boundaries.

(2) All of the corporate area of a city to which it provides such services pursuant to contract or prior express authority of the secretary.

The transportation planning agency may rely, in its determination of populations, on estimates which are used by the State Controller for distributing money to cities under Section 2107 of the Streets and Highways Code and to counties under Section 11005 of the Revenue and Taxation Code, and may contract with the Department of Finance or other appropriate state agency for an annual determination of such population estimates as may be necessary.

SEC. 4. Division 11.5 (commencing with Section 125000) is added to the Public Utilities Code, to read:

DIVISION 11.5. NORTH SAN DIEGO COUNTY TRANSIT DEVELOPMENT BOARD

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

125000. This part shall be known and may be cited as the "North San Diego County Transit Development Board Act."

125001. As used in this division, "board" means the North San Diego County Transit Development Board.

125002. It is the intent of the Legislature to improve existing public transportation services and encourage regional public transportation coordination. The Legislature recognizes that in order to achieve a unified, coordinated public transportation system within the San Diego region, it may be necessary to form a regionwide transit district at some future time. It is the intent of the Legislature that the North San Diego County Transit Development Board shall reserve the right to join and merge with such a district at such time as it is deemed mutually beneficial by the board and the region as a whole.

CHAPTER 2. CREATION OF BOARD

125050. There is hereby created, in that portion of the County of San Diego as described in Section 125051, the North San Diego County Transit Development Board. The board shall consist of six members selected as follows:

(a) One member of the San Diego County Board of Supervisors appointed by the board of supervisors, which member shall represent, on the board of supervisors, the largest portion of the area under the jurisdiction of the transit development board.

(b) One member of each of the City Councils of the Cities of Carlsbad, Escondido, Oceanside, San Marcos, and Vista, appointed by the respective city council.

Any unincorporated area under the jurisdiction of the transit development board which incorporates as another city after January 1, 1975, shall be entitled to appoint a member of its city council to the board.

125051. Each of the governing bodies appointing a member of the board pursuant to Section 125050 shall also appoint one alternate to serve on the board when the member is not available. The alternate shall be subject to the same restrictions and shall have the same powers, when serving on the board, as the member.

125052. The board shall consist of the following areas:

(a) The Cities of Carlsbad, Escondido, Oceanside, San Marcos, and Vista.

(b) Camp Joseph H. Pendleton.

(c) Census tracts: 170.04, 171.00, 173.00, 174.01, 174.02, 175.00, 176.00, 177.00, 178.02, 185 02, 185.03, 186.01, 186.02, 188 00, 189.01, 189.02, 190.00, 191.01, 191.02, 192.01, 192.02, 193.00, 194.00, 196.00,

197.00, 198.00, 199.00, 200.01, 200.02, 200.03, 201.01, 201.02, 202.03, 202.05, 203.00, 204.00, 206.02, 207.01, 207.02, and 208.00, as set forth in the 1970 decennial census maps for the State of California on file with the Bureau of the Census, Department of Commerce, Washington, D.C.

CHAPTER 3. ADMINISTRATION

125100. The board at its first meeting, and thereafter annually at the first meeting in January, shall elect a chairman who shall preside at all meetings, and a vice chairman who shall preside in his absence. In the event of their absence or inability to act, the members present, by an order entered in the minutes, shall select one of their members to act as chairman pro tem, who, while so acting, shall have all of the authority of the chairman.

125101. The board shall establish rules for its proceedings.

125102. A majority of the members of the board shall constitute a quorum for the transaction of business, and all official acts of the board shall require the affirmative vote of a majority of the members of the board.

125103. The acts of the board shall be expressed by motion, resolution, or ordinance.

125104. All meetings of the board shall be conducted in the manner prescribed by the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950), Part 1, Division 2, Title 5 of the Government Code).

125105. The board shall:

(a) Acquire, construct, maintain, and operate (or let a contract to operate) public transit systems and related facilities within the area of its jurisdiction.

(b) Adopt an annual budget and fix the compensation of its officers and employees.

(c) Adopt an administrative code, by ordinance, which shall prescribe the powers and duties of board officers, the method of appointment of board employees, and methods, procedures, and systems of operation and management of the board.

(d) Cause a postaudit of the financial transactions and records of the board to be made at least annually by a certified public accountant.

(e) Appoint such advisory commissions as it deems necessary.

(f) Do any and all things necessary to carry out the purposes of this division.

125106. Notice of time and place of the public hearing for the adoption of the annual budget shall be published pursuant to Section 6061 of the Government Code, and shall be published not later than the 15th day prior to the date of the hearing.

The proposed annual budget shall be available for public inspection at least 15 days prior to the hearing.

125107. Each member of the board, including the alternate

members appointed pursuant to Section 125051, shall be paid seventy-five dollars ($75) for each day the member or alternate attends meetings of the board, but not to exceed three hundred dollars ($300) in any month, and his necessary and reasonable expenses in performing his duties as a board member.

CHAPTER 4. POWERS AND FUNCTIONS

Article 1. Corporate Powers

125200. The board has perpetual succession and may adopt a seal and alter it at its pleasure.

125201. The board may sue and be sued, except as otherwise provided by law, in all actions and proceedings, in all courts and tribunals of competent jurisdiction.

125202. All claims for money or damages against the board are governed by Division 3.6 (commencing with Section 810) of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

Article 2. Contracts

125220. The board may make contracts and enter into stipulations of any nature whatsoever, either in connection with eminent domain proceedings or otherwise, including, without limiting the generality of the foregoing, contracts and stipulations to indemnify and save harmless, to employ labor, and to do all acts necessary and convenient for the full exercise of the powers granted in this division.

125221. Immediately upon holding its first meeting, the board shall proceed to negotiate with the existing municipal transit operators within its area of jurisdiction to acquire the capital transit equipment and facilities of the municipal transit operators.

125222. The board may contract with any department or agency of the United States of America, with any public agency, or with any person upon such terms and conditions as the board finds is in its best interest.

125223. Contracts for the purchase of supplies, equipment, and materials in excess of five thousand dollars ($5,000) shall be awarded to the lowest responsible bidder after competitive bidding, except in emergency declared by the vote of two-thirds of the membership of the board.

125224. If, after rejecting bids received under Section 125223, the board determines and declares by a two-thirds vote of all of its members that, in its opinion, the supplies, equipment, or materials may be purchased at a lower price in the open market, the board may proceed to purchase these supplies, equipment, or materials in the open market without further observance of the provisions regarding contracts, bids, or advertisements.

125225. Contracts for the construction in excess of ten thousand dollars ($10,000) shall be awarded to the lowest responsible bidder after competitive bidding, except in emergency declared by the vote of two-thirds of the membership of the board.

125226. The board may insure against any accident or destruction of the system or any part thereof. The board may also provide insurance as provided in Part 6 (commencing with Section 989), Division 3.6, Title 1 of the Government Code.

125227. The board may contract for the services of independent contractors.

Article 3. Property

125240. The board may take by grant, purchase, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and hold and enjoy, real and personal property of every kind within or without its area of jurisdiction necessary to the full or convenient exercise of its powers. The board may lease, mortgage, sell, or otherwise dispose of any real or personal property within or without its area of jurisdiction necessary to the full or convenient exercise of its powers.

125241. The board is entitled to the benefit of any reservation or grant, in all cases, where any right has been reserved or granted to any public agency to construct or maintain roads, highways, or other crossings over any public or private lands.

Article 4. Transit System

125260. The board shall plan, construct, and operate (or let a contract to operate) public transit systems within the area of its jurisdiction in conformance with the regional transportation plan developed pursuant to Chapter 2.5 (commencing with Section 65080) of Title 7 of the Government Code and the five-year transportation improvement program developed pursuant to Section 134 of Title 23 of the United States Code.

Article 5. Transportation Planning

125300. The board shall be responsible for short-term operational and financial planning for transit systems within the area of its jurisdiction.

125301. The council of governments which includes the area of the board shall be responsible for all regionwide transportation planning pursuant to Section 134 of Title 23 of the United States Code.

Article 6. Transportation Funding

125350. The board shall be deemed a provider of services within the area of its jurisdiction for purposes of Section 1604 of Title 49 of the United States Code.

125351. The board shall take all action necessary to obtain the maximum amount of funding available pursuant to Section 1602 of Title 49 of the United States Code. It is the intent of this section that no other public entity within the area of the board's jurisdiction shall file application for such funds.

Article 7. Public Contributions, Grants, Loans, and Contracts Cooperation

125400. The board may accept contributions, grants, or loans from any public agency or the United States or any department, instrumentality, or agency thereof, for the purpose of financing the planning, acquisition, construction, or operation of public transit systems, and may enter into contracts and cooperate with, and accept cooperation from, any public agency or the United States, or agency thereof, in the planning, acquisition, construction, or operation of any such systems in accordance with any legislation which Congress or the Legislature of the State of California may have heretofore adopted or may hereafter adopt, under which aid, assistance, and cooperation may be furnished by the United States or any public agency in the planning, acquisition, construction, or operation of any such systems. The board may do any and all things necessary in order to avail itself of such aid, assistance, and cooperation under any federal or state legislation now or hereafter enacted.

CHAPTER 5. PERSONNEL

Article 1. Application

125500. This chapter shall become operative on the date the board first begins to operate a public transit system pursuant to Section 125105.

Article 2. Employee Relations

125520. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

125521. Any question which may arise with respect to whether a majority of employees in an appropriate unit desire to be represented by a labor organization shall be submitted to the

Director of Industrial Relations. In resolving such questions of representation, including the determination of the appropriate unit or units, petitions, and the conduct of hearings and elections, the director shall apply the relevant federal law and administrative practice developed under the Labor Management Relations Act, 1947, as amended, and, for this purpose, shall adopt appropriate rules and regulations.

The State Conciliation Service shall administer such rules and regulations and shall provide for a prompt public hearing and secret ballot election to determine the question of representation and shall certify the results to the parties.

Any certification of a labor organization to represent or act for the employees in any collective-bargaining unit shall not be subject to challenge on the grounds that a new substantial question of representation within such collective-bargaining unit exists until the lapse of one year from the date of certification or the expiration of any collective-bargaining agreement, whichever is later, except that no collective-bargaining agreement shall be considered to be a bar to representation proceedings for a period of more than two years.

125522. Whenever a majority of the employees employed by the board in a unit appropriate for collective bargaining indicate a desire to be represented by a labor organization and upon determining, as provided in Section 125521 that the labor organization represents at least a majority of the employees in the appropriate unit, the board and the accredited representative of employees shall bargain in good faith and make all reasonable efforts to reach agreement on the terms of a written contract governing wages, hours, pensions, and working conditions.

125523. No contract or agreement shall be made with any labor organization, association, or group where such organization, association, or group denies membership on the grounds of race, creed, or color; provided, that such organization may preclude from membership any individual who advocates the overthrow of the government by force or violence.

125524. If, after a reasonable period of time, representatives of the board and the accredited representatives of the employees fail to reach agreement on the terms of a written contract governing wages, hours, pensions, and working conditions or the interpretation or application of the terms of an existing contract, either party may request mediation services of the State Conciliation Service.

125525. If, after a reasonable period of time, representatives of the transit development board and the accredited representatives of the employees fail to reach agreement either on the terms of a written contract governing wages, hours, pensions, and working conditions or the interpretation or application of the terms of an existing contract, upon the agreement of both the transit development board and the representatives of the employees, the dispute may be submitted to an arbitration board.

The arbitration board shall be composed of two representatives of

the transit development board and two representatives of the labor organization, and they shall endeavor to agree upon the selection of a fifth member. If they are unable to agree, the names of five persons experienced in labor arbitration shall be obtained from the State Conciliation Service. The labor organization and the transit development board shall, alternately, strike a name from the list so supplied, and the name remaining after the labor organization and the transit development board have stricken four names, shall be designated as the fifth arbitrator and chairman of the board of arbitration. The labor organization and the transit development board shall determine by lot who shall first strike a name from the list. The decision of a majority of the arbitration board shall be final and binding upon the parties thereto.

Each party shall be responsible for the expense of the presentation of its case. All other expenses of arbitration shall be borne equally by the parties and the expenses may include the making of a verbatim record of the proceedings and transcript of that record.

125526. In the event the board and the representatives of the employees do not agree to submit any dispute to arbitration as provided in Section 125525, the State Conciliation Service may be notified by either party that a dispute exists and there is no agreement to arbitrate.

Following such notification, the State Conciliation Service shall determine whether or not the dispute may be resolved by the parties and, if not, the issues concerning which the dispute exists. Upon such determination, the service shall certify its findings to the Governor of the State of California. The Governor shall, within 10 days of receipt of certification, appoint a factfinding commission consisting of three persons.

The commission shall immediately convene and inquire into and investigate the issues in the dispute. The commission shall have authority to issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, documents, and other records. Subpoenas shall be served and enforced in accordance with Chapter 2 (commencing with Section 1985), Title 3, Part 4 of the Code of Civil Procedure. The commission shall report to the Governor within 30 days of the date of its creation.

After the creation of such a commission, and for 30 days after such commission has made its report to the Governor, no change, except by mutual agreement, shall be made by the parties to the controversy in the conditions out of which the dispute arose, and service to the public shall be provided.

125527. In the event an exclusive collective-bargaining representative is selected pursuant to Section 125521, the provisions of Chapter 10 (commencing with Section 3500), Division 4, Title 1 of the Government Code are not applicable to the board.

Article 3. Rights of Employees of Existing Facilities

125540. Whenever the board acquires existing facilities from a publicly or privately owned utility, either in proceedings by eminent domain or otherwise, to the extent necessary for operation of facilities, all of the employees of such utility whose duties pertain to the facilities acquired who have been employed by such utility for at least 75 days shall be appointed to comparable positions by the board without examination. These employees shall be given sick leave, seniority, and vacation credits in accordance with the records of the acquired public utility. No employee of any acquired public utility shall suffer any worsening of wages, seniority, pension, vacation, or other benefits by reason of the acquisition.

Whenever the board acquires existing facilities from a publicly or privately owned utility, either in proceedings in eminent domain or otherwise, the board shall assume and observe all existing labor contracts.

The provisions of this section shall apply only to those officers or supervisory employees of the acquired utility as shall be designated by the board.

125541. Whenever the board acquires existing facilities from a publicly or privately owned utility, either in proceedings in eminent domain or otherwise, that has a pension plan in operation, members and beneficiaries of such pension plan shall continue to have the rights, privileges, benefits, obligations and status with respect to such established system. The outstanding obligations and liabilities of such public utility by reason of such pension plan shall be considered and taken into account and allowance made therefor in the purchase price of such public utility. The persons entitled to pension benefits as provided for in this section and the benefits which are provided shall be specified in the agreement or order by which any public utility is acquired by the board.

Article 4. Pension Plan

125550. The adoption, terms, and conditions of a pension plan covering employees of the board in a bargaining unit represented by a labor organization shall be pursuant to a collective-bargaining agreement between such organization and the board.

125551. The transit development board may contract with the Board of Administration of the Public Employees' Retirement System, and in such a case the board of administration shall enter into a contract with the transit development board, to enter all, or any portion, of the employees of the transit development board under such system; provided, that no employees of the transit development board in a bargaining unit which is represented by a labor organization shall be included in such contract except as authorized by a collective-bargaining agreement.

125552. All persons receiving pension benefits from an acquired

public utility, and all persons entitled to pension benefits under any pension plan of such acquired public utility, may become members or receive pensions under a pension plan established by the board by mutual agreement of such persons and the district. Such agreement may provide for the waiver of all rights, privileges, benefits, and status with respect to the pension plan of such acquired public utility.

Article 5. Other Benefits

125560. The board shall take such steps as may be necessary to obtain coverage for the board and its employees under Subchapter II of the Federal Social Security Act, as amended, and the related provisions of the Federal Contributions Act, as amended.

125561. The board shall take such steps as may be necessary to obtain coverage for the board and its employees under the workers' compensation, unemployment compensation, and disability and unemployment insurance laws of the State of California.

SEC. 5. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity which desires legislative authority to act to carry out the program specified in this act.

CHAPTER 1189

An act to amend Sections 35700, 35711, 35720, 35730.5, 35740, and 35742 of, and to add Section 35741.5 to, the Health and Safety Code, relating to discrimination.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 35700 of the Health and Safety Code is amended to read:

35700. The practice of discrimination because of race, color, religion, sex, marital status, national origin, or ancestry in housing accommodations is declared to be against public policy.

This part shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this state.

SEC. 1.5. Section 35700 of the Health and Safety Code is amended to read:

35700. The practice of discrimination because of race, color, religion, sex, marital status, national origin, ancestry, or being a student in housing accommodations is declared to be against public policy.

This part shall be deemed an exercise of the police power of the state for the protection of the welfare, health, and peace of the people of this state.

SEC. 2. Section 35711 of the Health and Safety Code is amended to read:

35711. The term "affirmative actions" means any educational activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, or ancestry and any promotional activity designed to achieve such a result on a voluntary basis.

SEC. 2.5. Section 35711 of the Health and Safety Code is amended to read:

35711. The term "affirmative actions" means any educational activity for the purpose of eliminating discrimination in housing accommodations because of race, color, religion, sex, marital status, national origin, ancestry, or being a student and any promotional activity designed to achieve such a result on a voluntary basis.

SEC. 3. Section 35720 of the Health and Safety Code is amended to read:

35720. It shall be unlawful:

1. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodation because of the race, color, religion, sex, marital status, national origin, or ancestry of such person or persons.

2. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to discriminate against any person because of the race, color, religion, sex, marital status, national origin, or ancestry of such person in the terms, conditions or privileges of any publicly assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

3. For any owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, or ancestry of a person seeking to purchase, rent or lease any publicly assisted housing accommodation for the purpose of violating any of the provisions of this part.

4. For the owner of any publicly assisted housing accommodation which is a single-family dwelling occupied by the owner, with knowledge of such assistance, to commit any of the acts prohibited by subdivisions 1, 2, and 3.

5. For the owner of any dwelling, other than a dwelling containing not more than four units, to commit any of the acts prohibited by subdivisions 1, 2, and 3.

6. For any person subject to the provisions of Section 51 of the Civil

Code, as that section applies to housing accommodations, as defined in this part, and to transactions relating to sales, rentals, leases, or acquisition of housing accommodations, as defined in this part, to discriminate against any person because of race, color, religion, sex, marital status, national origin, or ancestry with reference thereto.

7. For any person, bank, mortgage company or other financial institution to whom application is made for financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color. religion, sex, marital status, national origin, or ancestry of such person or persons, or of prospective occupants or tenants, in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance.

8. For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when his dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, or has testified or assisted in any proceeding under this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

9. For any person to aid, abet, incite, compel or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

SEC. 3.5. Section 35720 of the Health and Safety Code is amended to read:

35720. It shall be unlawful:

1. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to refuse to sell, rent or lease or otherwise to deny to or withhold from any person or group of persons such housing accommodation because of the race, color, religion, sex, marital status, national origin, or ancestry of such person or persons, or because of being a student.

2. For the owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to discriminate against any person because of the race, color, religion, sex, marital status, national origin, or ancestry of such person, or because of being a student in the terms, conditions or privileges of any publicly assisted housing accommodations or in the furnishing of facilities or services in connection therewith.

3. For any owner of any publicly assisted housing accommodation which is in, or to be used for, a multiple dwelling, with knowledge of such assistance, to make or to cause to be made any written or oral inquiry concerning the race, color, religion, sex, marital status, national origin, ancestry, or student status of a person seeking to purchase, rent or lease any publicly assisted housing accommodation for the purpose of violating any of the provisions of this part.

4. For the owner of any publicly assisted housing accommodation which is a single-family dwelling occupied by the owner, with knowledge of such assistance, to commit any of the acts prohibited by subdivisions 1, 2, and 3.

5. For the owner of any dwelling, other than a dwelling containing not more than four units, to commit any of the acts prohibited by subdivisions 1, 2, and 3.

6. For any person subject to the provisions of Section 51 of the Civil Code, as that section applies to housing accommodations, as defined in this part, and to transactions relating to sales, rentals, leases, or acquisition of housing accommodations, as defined in this part, to discriminate against any person because of race, color, religion, sex, marital status, national origin, or ancestry with reference thereto, or because of being a student.

7. For any person, bank, mortgage company or other financial institution to whom application is made for financial assistance for the purchase, organization, or construction of any housing accommodation to discriminate against any person or group of persons because of the race, color, religion, sex, marital status, national origin, or ancestry of such person or persons, or because of being a student, or of prospective occupants or tenants, in the terms, conditions or privileges relating to the obtaining or use of any such financial assistance.

8. For any owner of housing accommodations to harass, evict, or otherwise discriminate against any person in the sale or rental of housing accommodations when his dominant purpose is retaliation against a person who has opposed practices unlawful under this section, informed law enforcement agencies of practices believed unlawful under this section, or has testified or assisted in any proceeding under this part. Nothing herein is intended to cause or permit the delay of an unlawful detainer action.

9. For any person to aid, abet, incite, compel or coerce the doing of any of the acts or practices declared unlawful in this section, or to attempt to do so.

SEC. 4. Section 35730.5 of the Health and Safety Code is amended to read:

35730.5. The commission, in connection with its functions under this part, shall have the following powers and duties:

(a) To meet and function at any place within the state.

(b) To appoint an attorney, and such clerks and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(c) To obtain upon request and utilize the services of all governmental departments and agencies.

(d) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this part.

(e) To receive, investigate and pass upon verified complaints alleging discrimination in housing accommodations, as defined in this part, because of race, religious creed, color, sex, marital status,

national origin, or ancestry.

(f) To subpoena witnesses, both during the course of investigation of a case and in connection with a public hearing, and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission; to hold hearings, subpoena witnesses, compel their attendance, administer oaths, and examine any person under oath.

(g) To create such advisory agencies and conciliation councils, local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry, and to foster, through community effort or otherwise, good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(h) To issue such publications and such results of investigations and research as in its judgment will tend to promote goodwill and minimize or eliminate discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry.

(i) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

SEC. 4.5. Section 35730.5 of the Health and Safety Code is amended to read:

35730.5. The commission, in connection with its functions under this part, shall have the following powers and duties:

(a) To meet and function at any place within the state.

(b) To appoint an attorney, and such clerks and other employees as it may deem necessary, fix their compensation within the limitations provided by law, and prescribe their duties.

(c) To obtain upon request and utilize the services of all governmental departments and agencies.

(d) To adopt, promulgate, amend, and rescind suitable rules and regulations to carry out the provisions of this part.

(e) To receive, investigate and pass upon verified complaints alleging discrimination in housing accommodations, as defined in this part, because of race, religious creed, color, sex, marital status, national origin, or ancestry, or because of being a student.

(f) To subpoena witnesses, both during the course of investigation of a case and in connection with a public hearing, and, in connection therewith, to require the production of any books or papers relating to any matter under investigation or in question before the commission; to hold hearings, subpoena witnesses, compel their attendance, administer oaths, and examine any person under oath.

(g) To create such advisory agencies and conciliation councils,

local or otherwise, as in its judgment will aid in effectuating the purposes of this part, and may empower them to study the problems of discrimination in all or specific fields of human relationships or in specific instances of discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry, or because of being a student, and to foster, through community effort or otherwise, good will, cooperation, and conciliation among the groups and elements of the population of the state and to make recommendations to the commission for the development of policies and procedures in general. Such advisory agencies and conciliation councils shall be composed of representative citizens, serving without pay.

(h) To issue such publications and such results of investigations and research as in its judgment will tend to promote good will and minimize or eliminate discrimination because of race, religious creed, color, sex, marital status, national origin, or ancestry, or because of being a student.

(i) To render annually to the Governor and biennially to the Legislature a written report of its activities and of its recommendations.

SEC. 5. Section 35740 of the Health and Safety Code is amended to read:

35740. Nothing contained in this part shall be deemed to repeal any of the provisions of any other law of this state relating to discrimination because of race, color, religion, sex, marital status, national origin, or ancestry.

SEC. 5.5. Section 35740 of the Health and Safety Code is amended to read:

35740. Nothing contained in this part shall be deemed to repeal any of the provisions of any other law of this state relating to discrimination because of race, color, religion, sex, marital status, national origin, or ancestry, or because of being a student.

SEC. 6. Section 35741.5 is added to the Health and Safety Code, to read:

35741.5. Nothing contained in this part shall be construed to prohibit any postsecondary educational institution, whether private or public, from providing housing accommodations reserved for either male or female students so long as no individual person is denied equal access to housing accommodations, or from providing separate housing accommodations reserved primarily for married students or for students with minor dependents who reside with them.

SEC. 7. Section 35742 of the Health and Safety Code is amended to read:

35742. Nothing contained in this part shall be construed to prohibit selection based upon factors other than race, color, religion, sex, marital status, national origin, or ancestry.

SEC. 7.5. Section 35742 of the Health and Safety Code is amended to read:

35742. Nothing contained in this part shall be construed to prohibit selection based upon factors other than race, color, religion, sex, marital status, national origin, or ancestry, or because of being a student.

SEC. 8. It is the intent of the Legislature, if this bill and Assembly Bill No. 744 are both chaptered and become effective January 1, 1976, both bills amend Sections 35700, 35711, 35720, 35730.5, 35740, and 35742 of the Health and Safety Code, and this bill is chaptered after Assembly Bill No. 744, that the amendments to Sections 35700, 35711, 35720, 35730.5, 35740, and 35742 proposed by both bills be given effect and incorporated in Sections 35700, 35711, 35720, 35730.5, 35740, and 35742 in the form set forth in Sections 1.5, 2.5, 3.5, 4.5, 5.5, and 7.5 of this act. Therefore, Sections 1.5, 2.5, 3 5, 4.5, 5.5, and 7.5 of this act shall become operative only if this bill and Assembly Bill No. 744 are both chaptered and become effective January 1, 1976, both amend Sections 35700, 35711, 35720, 35730.5, 35740, and 35742, and this bill is chaptered after Assembly Bill No. 744, in which case Sections 1, 2, 3, 4, 5, and 7 of this act shall not become operative.

CHAPTER 1190

An act to amend Section 2416 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 2416 of the Vehicle Code is amended to read:

2416. (a) The Commissioner of the California Highway Patrol may issue authorized emergency vehicle permits only for the following vehicles, and then only upon a finding in each case that the vehicle is used in responding to emergency calls for fire or law enforcement or for the immediate preservation of life or property or for the apprehension of law violators:

(1) Any vehicle maintained in whole or in part by the state, a county or a city and privately owned and operated by a constable, deputy constable, or person who is a member of, and who receives salary from, and is regularly employed by, a police department or sheriff's department, provided the state, county or city does not furnish to such person a publicly owned authorized emergency vehicle.

(2) An emergency repair vehicle of a utility or public utility.

(3) Firefighting equipment designed and operated exclusively as such.

(4) Any vehicle operated by the chief, assistant chief, or one other

uniformed person designated by the chief of a fire department organized as provided in the Health and Safety Code or the Government Code or pursuant to special act of the Legislature.

(5) Any vehicle of an air pollution control district used to enforce provisions of law relating to air pollution from motor vehicles.

(6) Any vehicle operated by the chief of any fire department established on any base of the armed forces of the United States.

(7) Vehicles used for law enforcement work by a peace officer of the state park system appointed pursuant to Section 5008 of the Public Resources Code.

(8) Vehicles used for law enforcement work by a person who is a park ranger of the Lake Hemet Municipal Water District, a security officer of the East Bay Municipal Utility District, or a fish and game warden of San Joaquin County or deputy warden and who is a peace officer under the provisions of Section 830.3 or 830.12 of the Penal Code.

(9) Vehicles used for law enforcement work by persons designated by the Board of Supervisors of Kern County to protect Kern County parks from damage and preserve the peace therein pursuant to Section 5380 of the Public Resources Code. Such authorized emergency equipment shall be used only for stopping vehicles for suspected traffic violations or for allowing the movement of the authorized emergency vehicle through traffic during an emergency.

(b) Privately owned ambulances may be operated as emergency vehicles only under a license issued in accordance with the provisions of Chapter 2.5 (commencing with Section 2500) of this division.

CHAPTER 1191

An act to amend Sections 70047, 70056.5, 70141.11, 73341, 73347, 73350, 73351, 73351.1, 73352, 73354, 73356, and 73358 of, and to add Sections 70047.1 and 73354.5 to, the Government Code, relating to courts.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 70047 of the Government Code is amended to read:

70047. In Contra Costa County, the annual salary of each regular official reporter shall be based on a four-step salary plan with one-year increments as follows:

Step 1. Sixteen thousand seven hundred sixty-four dollars ($16,764).

Step 2. Seventeen thousand six hundred four dollars ($17,604).

Step 3. Eighteen thousand four hundred eighty dollars ($18,480).

Step 4. Nineteen thousand four hundred four dollars ($19,404).

The step of entry to the above schedule shall be determined on the basis of their presently existing years of service as official reporters in Contra Costa County on the effective date of the amendment made to this section by the Legislature at the 1975–76 Regular Session. The compensation of each official reporter pro tempore shall be at the rate of fifty-five dollars ($55) a day for the days he actually is on duty under order of the court which per diem rate shall apply when an official reporter is appointed pursuant to Section 869 of the Penal Code by a justice court judge acting as a magistrate.

During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him by law, he shall render stenographic or clerical assistance to the judge of the court to which he is assigned as such judge may direct.

SEC. 1.5. Section 70047.1 is added to the Government Code, to read:

70047.1. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in the County of Contra Costa. Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of any such county and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period;

(2) The fees charged and the fees collected for such transcripts;

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts;

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose; and

(5) Such other information as the Judicial Council may require.

SEC. 2. Section 70056.5 of the Government Code is amended to read:

70056.5. Notwithstanding the provisions of Section 70056, in Contra Costa County the fee required by Section 70053 shall be fifteen dollars ($15).

SEC. 3. Section 70141.11 of the Government Code is amended to read:

70141.11. In Contra Costa County, the superior court may provide that the commissioner, and the referee who shall have been a member of the State Bar for a period of at least five years immediately preceding his appointment and has been appointed pursuant to Section 553 of the Welfare and Institutions Code, shall, in addition to the duties prescribed in Section 259 of the Code of Civil Procedure, perform the duties prescribed by Section 259a of the Code of Civil Procedure and in addition thereto the duties of a probate commissioner appointed pursuant to Section 69897 of this code.

This section shall not affect any of the powers or duties otherwise authorized for a referee appointed pursuant to Section 553 of the Welfare and Institutions Code.

The commissioner shall be paid the salary recommended by the superior court and approved by the board of supervisors plus reimbursement for necessary, reasonable and actual expenses in connection with official duties. Any court reporting functions for the commissioner may be by electronic or mechanical means and devices.

SEC. 4. Section 73341 of the Government Code is amended to read:

73341. Except as otherwise provided in this article, each municipal court district established in Contra Costa County shall have the number of judges set forth opposite the name of the judicial district over which such court has jurisdiction.

Delta Judicial District	2
Mt. Diablo Judicial District	4
Richmond Judicial District	3
Walnut Creek-Danville Judicial District	3
West Judicial District	2
Any other court established or declared to exist	1

SEC. 5. Section 73347 of the Government Code is amended to read:

73347. In any civil action or proceeding, in addition to the fees required by Article 2 (commencing with Section 72050) of Chapter 8 of Title 8, a fee of fifteen dollars ($15) shall be paid to the clerk of the court by each party or jointly by parties appearing jointly, once only in any such action or proceeding, in the following instances:

(a) Upon the filing of a complaint or other first paper.

(b) Upon the filing of an answer or other first paper on behalf of any party (or parties appearing jointly) other than the plaintiff.

(c) Upon the filing of papers transmitted from one court on the transfer of a civil action or special proceeding. The fees so required shall be taxed as costs in favor of the party paying the same and to whom costs are awarded by the judgment of the court. All fees collected under the provisions of this section shall be transmitted to

the county treasurer in the same manner as fees collected under Article 2 of Chapter 8 of Title 8.

SEC. 6. Section 73350 of the Government Code is amended to read:

73350. There are the following classes of positions into which each of the positions of the municipal courts and marshals' offices shall be assigned as prescribed in the section pertaining to each court or marshal's office.

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

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

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

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

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

(f) Deputy clerk IV, which shall include clerical duties of a complex and varied nature in which the incumbent works independently, such as an employment having as a primary assignment the discharge of a court's orders and the maintenance of court minutes.

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

(h) Clerk-administrator of the court, which shall include any municipal court position in a multijudge court charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties.

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

(j) Deputy marshal sergeant, which shall include any position in

a marshal's office responsible for assigning and reviewing the work of several deputy marshals I in serving court processes and other peace officer activities.

(k) Marshal, which shall include any nonelective position responsible for the management and supervision of the duties of the office of marshal in any multijudge judicial district.

SEC. 7. Section 73351 of the Government Code is amended to read:

73351. Whenever reference is made to a numbered salary level in any section of this article, the salary schedule found in the salary ordinance or resolution of Contra Costa County shall apply. This salary schedule is the same schedule utilized for employees of Contra Costa County. If the board of supervisors adopts a revised salary schedule for county employees the new schedule shall apply equally to municipal courts and marshals' offices and conversion to the new schedule shall be effected for employees of the municipal courts or marshals' offices in the same manner and on the same date as for county employees, but all such adjustments shall be effective only until January 1, 1978.

SEC. 8. Section 73351.1 of the Government Code is amended to read:

73351.1. Classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

(a) Deputy clerk I	Level 135
(b) Deputy clerk II	Level 179
(c) Deputy clerk III	Level 243
(d) Process clerk	Level 243
(e) Supervising process clerk	Level 291
(f) Deputy clerk IV	Level 309
(g) Deputy marshal	Level 352
(h) Chief deputy clerk	Level 389
(i) Deputy marshal sergeant	Level 400
(j) Clerk-administrator of the court	Level 461
(k) Marshal	Level 480

SEC. 9. Section 73352 of the Government Code is amended to read:

73352. Certain classifications in the municipal courts and marshals' offices are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the municipal courts or marshals' offices shall be adjusted a commensurate number of levels on the salary schedule. Such adjustments shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but such adjustments shall be effective only until January 1, 1978.

(a) The class of deputy clerk I is equivalent in job and salary level to the class of typist-clerk I in the service of Contra Costa County.

The class of deputy clerk II is equivalent to intermediate typist-clerk.

(b) Whenever the salary of the class of deputy clerk II is adjusted as described above, the class of deputy clerk III and process clerk shall be adjusted an equivalent number of levels on the salary schedule.

(c) The class of deputy marshal is equivalent in job and salary level to the class of deputy sheriff in the service of Contra Costa County. The class of deputy marshal sergeant is equivalent in job and salary level to the class of deputy sheriff sergeant in the service of Contra Costa County. The class of marshal shall be allocated to a salary level which is eighty (80) salary levels on the salary schedule above that of deputy marshal sergeant.

(d) The position of municipal court reporter is equivalent in job responsibility to positions described and functioning as superior court reporters in Contra Costa County. Whenever the superior court reporters are authorized a basic salary adjustment, the salary of municipal court reporters shall be adjusted. Such adjustment shall be effective on the same date as the superior court reporter salaries are adjusted.

(e) The class of supervising process clerk shall be allocated to a salary level which is forty-eight (48) salary levels on the salary schedule above that of process clerk.

(f) The class of deputy clerk IV shall be allocated to a basic salary schedule which is sixteen (16) salary levels on the salary schedule below the county class of superior court clerk. Whenever the salary of the class of superior court clerk is adjusted by the board of supervisors the classes of deputy clerk IV shall be adjusted an equivalent number of levels on the salary schedule.

(g) The class of chief deputy clerk shall be allocated to a salary level which is eighty (80) salary levels on the salary schedule above that of deputy clerk IV.

(h) The class of clerk-administrator of the court shall be allocated to a salary level which is seventy-two (72) salary levels on the salary schedule above that of chief deputy clerk.

SEC. 10. Section 73354 of the Government Code is amended to read:

73354. In a municipal court district having four judges, the following positions are authorized:

(a) One (1) clerk-administrator of the court.

(b) One (1) chief deputy clerk.

(c) Ten (10) deputy clerks IV.

(d) Twelve (12) deputy clerks III.

(e) Twenty-two (22) deputy clerks II or deputy clerks I, not to exceed a combined total of 22 positions at any one time.

SEC. 11. Section 73354.5 is added to the Government Code, to read:

73354.5. In a municipal court district having four judges, the following positions are authorized:

(a) One (1) marshal.

(b) One (1) deputy marshal sergeant.
(c) Twelve (12) deputy marshals.
(d) One (1) supervising process clerk.
(e) One (1) process clerk.
(f) Six (6) deputy clerks II or deputy clerks I, not to exceed a combined total of six positions at any one time.
(g) Ten (10) deputies, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purposes of obtaining civil service status or any other benefits of this article.

SEC. 12. Section 73356 of the Government Code is amended to read:

73356. In a municipal court district having three judges, the following positions are authorized:
(a) One (1) marshal.
(b) One (1) deputy marshal sergeant.
(c) Twelve (12) deputy marshals.
(d) One (1) supervising process clerk.
(e) One (1) process clerk.
(f) Six (6) deputy clerks II or deputy clerks I, not to exceed a combined total of six positions at any one time.
(g) Ten (10) deputies, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purposes of obtaining civil service status or any other benefits of this article.

SEC. 13. Section 73358 of the Government Code is amended to read:

73358. In a municipal court district having two judges, the following positions are authorized:
(a) One (1) marshal.
(b) One (1) deputy marshal sergeant.
(c) Six (6) deputy marshals.
(d) One (1) process clerk.
(e) Four (4) deputy clerks II or deputy clerks I, not to exceed a combined total of four positions at any one time.
(f) Ten (10) deputies, who serve as custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the

judicial district for purposes of obtaining civil service status or any other benefits of this article.

SEC. 14. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide, basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Contra Costa County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in these counties in view of their submitted requests for adjustments in the compensation provided to court reporters in such counties.

SEC. 15. Notwithstanding Section 2231 of the Revenue and Taxation Code, no appropriation is made by this act nor shall any reimbursement be made for any costs that may be incurred by any local government entity pursuant to the act, because the affected local government entities have requested the Legislature to revise state law in accordance with the provisions of this act in order to carry on any program or service required by the act.

CHAPTER 1192

An act to repeal and add Chapter 9 (commencing with Section 8750) of Division 1 of Title 2 of the Government Code, relating to the arts, making an appropriation therefor.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Chapter 9 (commencing with Section 8750) of Division 1 of Title 2 of the Government Code is repealed.

SEC. 2. Chapter 9 (commencing with Section 8750) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 9. ART

8750. The Legislature perceives that life in California is enriched by art.

The source of art is in the natural flow of the human mind. Realizing craft and beauty is demanding, however, the people of the

state desire to encourage and nourish these skills wherever they occur, to the benefit of all.

8751. There is in the state government an Arts Council which shall be composed of nine persons appointed by the Governor with the advice and consent of the Senate. Each year the members of the council shall select a chairperson. Members of the council shall receive one hundred dollars ($100) per meeting and shall be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.

8751.5. If any member of the council is an employee, member, director, or officer of any arts organization that has applied to the council for a grant, such member shall not communicate with any other member of the council or any member of an advisory panel regarding such grant application and such member shall not be present when such is considered by the council or panel.

8752. The council shall meet at the call of the chairperson not less than 10 times each calendar year. Unless there are extraordinary circumstances, all meetings are to be preceded by at least 10 days public notice, and shall be held in various places throughout the state so as to encourage broad and diverse attendance.

8753. The council shall:

(a) Encourage artistic awareness, participation and expression.

(b) Help independent local groups develop their own art programs.

(c) Promote the employment of artists and those skilled in crafts in both the public and private sector.

(d) Provide for the exhibition of art works in public buildings throughout California.

(e) Enlist the aid of all state agencies in the task of ensuring the fullest expression of our artistic potential.

(f) Adopt regulations in accordance with the provisions of the Administrative Procedure Act necessary for proper execution of the powers and duties granted to the council by this chapter.

(g) Employ such administrative, technical, and other personnel as may be necessary.

(h) Fix the salaries of the personnel employed pursuant to this chapter which salaries shall be fixed as nearly as possible to conform to the salaries established by the State Personnel Board for classes of positions in the state civil service involving comparable duties and responsibilities.

(i) Appoint advisory committees whenever necessary. Members of an advisory committee shall serve without compensation, but each may be reimbursed for necessary traveling and other expenses incurred in the performance of official duties.

(j) Request and obtain from any department, division, board, bureau, commission, or other agency of the state such assistance and data as will enable it properly to carry on its power and duties.

(k) Hold hearings, execute agreements, and perform any acts necessary and proper to carry out the purposes of this chapter.

(*l*) Accept federal grants, for any of the purposes of this chapter.

(m) Accept only unrestricted gifts, donations, bequests, or grants of funds from private sources and public agencies, for any of the purposes of this chapter. However, the council shall give careful consideration to any donor requests concerning specific dispositions.

(n) Establish grant application criteria and procedure.

(o) Award prizes or direct grants to individuals or organizations in accordance with such regulations as the council may prescribe.

8753.5. The council shall not make any grants or fund any program which has not been established pursuant to the powers granted by this chapter.

8754. The Governor shall appoint a director and two deputies for the Arts Council who shall serve at the pleasure of the Governor. The council may delegate to the director the responsibilities for carrying out council policy.

The director shall assist the council in the carrying out of its work, be responsible for the management and administration of the council staff, and perform other duties as directed by the council.

8755. Upon nomination by the council, the Governor may grant special recognition to any citizen with exceptional talent who has made a unique contribution to the cultural or artistic heritage of the State of California.

8756. This chapter shall be known and may be cited as the Dixon-Zenovich-Maddy California Arts Act of 1975.

SEC. 3. The sum of seven hundred thousand dollars ($700,000) is hereby appropriated from the General Fund to the Arts Council for the purposes of this act, during the fiscal year 1975–76.

CHAPTER 1193

An act to amend Section 13469.1 of the Education Code, relating to school employees.

[Approved by Governor September 30, 1975. Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 13469.1 of the Education Code is amended to read:

13469.1. Governing boards of school districts shall provide by rules and regulations for industrial accident and illness leaves of absence for all certificated employees. The governing board of any district which is created or whose boundaries or status is changed by an action to organize or reorganize districts completed after the effective date of this section shall provide by rules and regulations for such leaves of absence on or before the date on which the organization or reorganization of the district becomes effective for

all purposes as provided in Section 1704 of this code.

Such rules or regulations shall include the following provisions:

a. Allowable leave shall be for not less than 60 days during which the schools of the district are required to be in session or when the employee would otherwise have been performing work for the district in any one fiscal year for the same accident;

b. Allowable leave shall not be accumulated from year to year;

c. Industrial accident or illness leave shall commence on the first day of absence;

d. When a certificated employee is absent from his duties on account of an industrial accident or illness, he shall be paid such portion of the salary due him for any month in which the absence occurs as, when added to his temporary disability indemnity under Division 4 or Division 4.5 of the Labor Code, will result in a payment to him of not more than his full salary;

The phrase "full salary" as utilized in this subdivision shall be computed so that it shall not be less than the employee's "average weekly earnings" as that phrase is utilized in Section 4453 of the Labor Code. For purposes of this section, however, the maximum and minimum average weekly earnings set forth in Section 4453 of the Labor Code shall otherwise not be deemed applicable.

e. Industrial accident or illness leave shall be reduced by one day for each day of authorized absence regardless of a temporary disability indemnity award;

f. When an industrial accident or illness leave overlaps into the next fiscal year, the employee shall be entitled to only the amount of unused leave due him for the same illness or injury.

Upon termination of the industrial accident or illness leave, the employee shall be entitled to the benefits provided in Sections 13467, 13468 and 13469, and for the purposes of each of these sections, his absence shall be deemed to have commenced on the date of termination of the industrial accident or illness leave, provided that if the employee continues to receive temporary disability indemnity, he may elect to take as much of his accumulated sick leave which, when added to his temporary disability indemnity, will result in a payment to him of not more than his full salary.

The governing board may, by rule or regulation, provide for such additional leave of absence for industrial accident or illness as it deems appropriate.

During any paid leave of absence, the employee may endorse to the district the temporary disability indemnity checks received on account of his industrial accident or illness. The district, in turn, shall issue the employee appropriate salary warrants for payment of the employee's salary and shall deduct normal retirement, other authorized contributions, and the temporary disability indemnity, if any, actually paid to and retained by the employee for periods covered by such salary warrants.

Any employee receiving benefits as a result of this section shall, during periods of injury or illness, remain within the State of

California unless the governing board authorizes travel outside the state.

In the absence of rules and regulations adopted by the governing board pursuant to this section an employee shall be entitled to industrial accident or illness leave as provided in this section but without limitation as to the number of days of such leave.

CHAPTER 1194

An act to amend Section 94.5 of the Streets and Highways Code, relating to construction contracts.

[Approved by Governor September 30, 1975. Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 94.5 of the Streets and Highways Code is amended to read:

94.5. The department may provide in any construction contract awarded to the lowest bidder for the payment of extra compensation to the contractor for the cost reduction changes in the plans and specifications for the project made pursuant to a proposal submitted by the contractor. The extra compensation to the contractor shall be 50 percent of the net savings in construction costs as determined by the department.

The department shall submit a report to the Legislature by March 15, 1979, and by March 15 each fourth year thereafter, describing its experience under this section for the period subsequent to the last report submitted to the Legislature.

CHAPTER 1195

An act to add Section 1238.5 to the Penal Code, relating to appeals in criminal cases.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 1238.5 is added to the Penal Code, to read:

1238.5. Upon appeal by the prosecution pursuant to Section 1238, where the notice of appeal is filed after the expiration of the time available to defendant to seek review of an otherwise reviewable order or ruling and the appeal by the prosecution relates to a matter decided during the time available to the defendant to seek review

of the otherwise reviewable order or ruling, the time for defendant to seek such review is reinstated to run from the date the notice of appeal was filed with proof of service upon defendant or his counsel.

The Judicial Council shall provide by rule for the consolidation of such petition for review with the prosecution appeal.

CHAPTER 1196

An act to amend Sections 2535 and 2535.1 of the Business and Professions Code, relating to speech pathologists and audiologists, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1975. Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 2535 of the Business and Professions Code is amended to read:

2535. Licenses issued pursuant to this chapter shall expire on December 31st of each odd-numbered year, if not renewed.

SEC. 2. Section 2535.1 of the Business and Professions Code is amended to read:

2535.1. To renew an unexpired license, the holder, on or before December 31st of each odd-numbered year, shall apply for renewal on a form prescribed by the committee, and pay the renewal fee prescribed by this chapter.

Any license issued pursuant to this chapter on or after August 31st of an odd-numbered year, shall expire on December 31st of the next odd-numbered year.

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

Under existing law licenses issued pursuant to the Speech Pathologists and Audiologists Licensure Act are due to expire on December 31, 1976. However, the Speech Pathology and Audiology Examining Committee does not have sufficient funds to continue administering the provisions of the act until December 31, 1976. Therefore, in order to provide sufficient funds to insure administration of the act it is necessary that this act take immediate effect.

CHAPTER 1197

An act to amend Sections 383 and 386 of, and to add Section 387 to, and to repeal Section 387 of, the Elections Code, relating to elections.

[Approved by Governor September 30, 1975. Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 383 of the Elections Code is amended to read:

383. The county clerk shall cancel the registration in the following cases:

(a) At the request of the person registered.

(b) When the insanity of the person registered is legally established.

(c) Upon the production of a certified copy of a subsisting judgment of the conviction of the person registered of any infamous crime or of the embezzlement or misappropriation of any public money.

(d) Upon the production of a certified copy of a judgment directing the cancellation to be made.

(e) Upon the death of the person registered.

(f) Pursuant to the provisions of Section 387 of this code.

SEC. 2. Section 386 of the Elections Code is amended to read:

386. On completion of the canvass of the returns of the general election the county clerk shall:

(a) Examine the absent voters list and the roster of voters that was kept by the election officers in each precinct in the county at the general election.

(b) Mail the notice required pursuant to Section 387.

(c) Cancel the original and duplicate affidavits of registration and remove the original affidavit of registration for each voter who did not vote at that election, if he receives an address correction requested or any other postal notice which indicates that the voter no longer resides at his registered address, as provided in Section 387.

The effective date of cancellation of registration shall be the 30th day following the date the notice is mailed to the voter.

SEC. 3. Section 387 of the Elections Code is repealed.

SEC. 4. Section 387 is added to the Elections Code, to read:

387. When a person fails to vote at the general election, the county clerk shall no later than the first day of the following January mail a notice, by means of a forwardable double postcard address correction requested, prepaid by the clerk, to that person at the address given on the registration or upon the last application for transfer of registration, stating on one of the postcards the following:

"Our records indicate that you did not vote in the general election

on November _____ 19____.

"If you still live at the address noted on this card, your registration will remain permanent and you may disregard this notice.

"If you have moved to a new address within (name of county), write the new address on the attached card and mail it postage free. If this card is not returned by _____, your registration will be canceled and you must reregister before you are again entitled to vote.

"If you have moved to another county, your registration will be canceled and you must reregister at your new address."

If the clerk does not receive an address correction notice for a voter or any other postal notice which indicates that the voter no longer resides at that registered address, he shall maintain the voter's registration.

If the clerk receives within 30 days after mailing the notice signed, written notification that the voter has removed to a different, stated residence within the same county, he shall accept such notification and shall change the address on the voter's affidavit of registration accordingly.

If the clerk receives an address correction notice which indicates that the voter has moved within the county and the clerk does not receive a written change of address notice from the registered voter within 30 days of the mailing of the notice or if the clerk receives an address correction notice which indicates that the voter has moved to another county or if the clerk receives any other postal notice which indicates that the voter no longer resides at that registered address, the clerk shall cancel the voter's registration.

SEC. 5. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations, or responsibilities imposed on local entities in 1975–76 by this act. However, there are minor savings as well as state-mandated local costs in this act in 1976–77 and subsequent years that, in the aggregate, may require reimbursement under Section 2231 of the Revenue and Taxation Code which can be handled in the regular budget process.

CHAPTER 1198

An act to amend Sections 13000, 13002, and 14902 of, and to add Section 13005.3 to, the Vehicle Code, relating to identification cards, and making an appropriation therefor.

[Approved by Governor September 30, 1975. Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 13000 of the Vehicle Code is amended to read:

13000. (a) The department may issue an identification card to any person attesting to the true name, correct age, and other identifying data as certified by the applicant for such identification card.

(b) Any person 62 years of age or older may apply for, and the department upon receipt of a proper application therefore shall issue, an identification card bearing the notation "Senior Citizen".

(c) Every application for an identification card shall be signed and verified by the applicant before a person authorized to administer oaths and shall be supported by such bona fide documentary evidence of the age and identity of such person as the department may require.

(d) Any person 62 years of age or older, and any other qualified person, may apply for, or possess, an identification card under the provisions of either subdivision (a) or (b), but not under both such provisions.

SEC. 2. Section 13002 of the Vehicle Code is amended to read:

13002. (a) Except as otherwise provided in subdivision (b), every identification card shall expire, unless canceled earlier, on the sixth birthday of the applicant following the date of original issue. Renewal of any identification card, other than a senior citizen identification card, shall be made for a term which shall expire on the sixth birthday of the applicant following expiration of the identification card renewed, unless surrendered earlier. Any application for renewal received after 90 days after expiration of the identification card, including a senior citizen identification card, shall be considered the same as an application for an original identification card. The department shall, at the end of six years and six months after the issuance or renewal of an identification card, other than a senior citizen identification card, destroy any record of the card if it has expired and has not been renewed.

(b) Every senior citizen identification card issued pursuant to subdivision (b) of Section 13000 shall expire, unless canceled earlier, on the 10th birthday of the applicant following the date of original issue. Renewal of any senior citizen identification card shall be made for a term which shall expire on the 10th birthday of the applicant following expiration of the senior citizen identification card renewed, unless surrendered earlier. The department shall, at the end of 10 years and six months after the issuance or renewal of a senior citizen identification card, destroy any record of the card if it has expired and has not been renewed.

SEC. 3. Section 13005.3 is added to the Vehicle Code, to read:

13005.3. In addition to the requirements of Section 13005, any identification card issued pursuant to subdivision (b) of Section 13000 shall contain the words "Senior Citizen", which shall appear prominently, as to color and size, on the card.

SEC. 4. Section 14902 of the Vehicle Code is amended to read:

14902. (a) Except as otherwise provided in subdivision (b), upon an application for an identification card there shall be paid to the department a fee of three dollars and twenty-five cents ($3.25), which fee shall be deposited in the Motor Vehicle Account in the Transportation Tax Fund.

(b) Upon application for an original senior citizen identification card, or for the renewal thereof, issued pursuant to subdivision (b) of Section 13000, there shall be paid to the department a fee of three dollars ($3). The provisions of Section 14903 shall apply with respect to the issuance of a duplicate senior citizen identification card.

All fees received pursuant to this subdivision and Section 14903, for the issuance of senior citizen identification cards, shall be deposited in the Motor Vehicle Account in the Transportation Tax Fund.

SEC. 5. There is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund in the State Treasury to the General Fund and from the General Fund to the Department of Motor Vehicles the sum of ninety-seven thousand dollars ($97,000) as a loan for the purposes of issuing identification cards to persons 62 years of age or older pursuant to the provisions of subdivision (b) of Section 13000 of the Vehicle Code. The amount of money appropriated from the Motor Vehicle Account in the State Transportation Fund in the State Treasury by this act shall be repaid thereto from fees collected by the Department of Motor Vehicles pursuant to Section 14902 of the Vehicle Code.

CHAPTER 1199

An act to amend Section 69599 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 69599 of the Government Code is amended to read:

69599. In San Mateo County there shall be 14 judges of the superior court.

SEC. 2. The sum of sixty thousand dollars ($60,000) is hereby appropriated from the General Fund to the State Controller for payment to San Mateo County as a state block grant to meet the requirements of Section 2231 of the Revenue and Taxation Code, provided, that the amount appropriated by this act shall be deemed the full annual costs of the mandated program, and further provided, disbursement of the funds herein shall not diminish payment by the state under provisions of Government Code Sections 68206 and 75101.

CHAPTER 1200

An act to repeal Section 851.5 of, and to add Section 851.5 to, the Penal Code, relating to the rights of arrested persons.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 851.5 of the Penal Code is repealed.

SEC. 2. Section 851.5 is added to the Penal Code, to read:

851.5. (a) Immediately upon being booked, and, except where physically impossible, no later than three hours after arrest, an arrested person has the right to make at least two completed telephone calls, as described in subdivision (b).

The arrested person shall be entitled to make at least two such calls at no expense if the calls are completed to telephone numbers within the local calling area.

(b) At any police facility or place where an arrestee is detained, a sign containing the following information in bold block type shall be posted in a conspicuous place:

That the arrestee has the right to free telephone calls within the local dialing area, or at his own expense if outside the local area, to two of the following:

(1) An attorney of his choice or, if he has no funds, the public defender or other attorney assigned by the court to assist indigents, whose telephone number shall be posted. This phone call shall not be monitored, eavesdropped upon, or recorded.

(2) A bail bondsman.

(3) A relative or other person.

(c) These telephone calls shall be given immediately upon request, or as soon as practicable.

(d) This provision shall not abrogate a law enforcement officer's duty to advise a suspect of his right to counsel or of any other right.

(e) Any public officer or employee who willfully deprives an arrested person of any right granted by this section is guilty of a misdemeanor.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section, nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1201

An act making an appropriation for the state park system, and in this connection to amend and supplement the Budget Act of 1975 by adding Section 2.8N thereto.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 2.8N is added to the Budget Act of 1975, to read:

STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

Sec. 2.8N. The following sum of money, or so much thereof as may be necessary, is hereby appropriated for expenditure during the 1975–76, 1976–77, and 1977–78 fiscal years. Such appropriation shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

CAPITAL OUTLAY

Resources

387N—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (b) and (e) of Section 5096.85 of the Public Resources Code, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974		295,000
(a) Indian Grinding Rock State Historic Park, all or part of approximately 220 acres of adjacent lands described as Areas A and B in the State Beach, Park, Recreational, and Historical Facilities Bond Act of 1974 Studies of the Department of Parks and Recreation, acquisition and development	295,000	

provided, that none of the funds which are appropriated by this item for the project set forth herein shall be available for expenditure unless and until such project is recommended by the State Park and Recreation Commission and reviewed by the Secretary of the Resources Agency; and provided, further, that such funds shall not be expended on

the purchase price of any real property until the State Public Works Board has determined that the procedures and criteria established by the Attorney General relating to implied dedication have been complied with in the investigations and appraisals of the Department of General Services, and all material relating to implied dedication shall be retained in the files of the Department of General Services and shall be available for post-audit on a selective basis by the Attorney General.

CHAPTER 1202

An act to add Chapter 5 (commencing with Section 2781) to Part 2 of Division 1 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 30, 1975. Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Chapter 5 (commencing with Section 2781) is added to Part 2 of Division 1 of the Public Utilities Code, to read:

CHAPTER 5. HOME INSULATION ASSISTANCE AND FINANCING

2781. As used in this chapter, the term "electrical corporation" shall have the same meaning as prescribed in Section 218, and the term "gas corporation" shall have the same meaning as prescribed in Section 222.

2782. The commission shall permit any electrical or gas corporation to institute a home insulation assistance and financing program for its residential customers in accordance with the provisions of this chapter. The commission shall develop and adopt, by regulation or order, such requirements as it finds are necessary or desirable to implement the provisions of this chapter.

2783. A home insulation assistance and financing program shall meet the requirements specified in Sections 2784 to 2786, inclusive, and such other requirements as the commission may impose.

2784. A customer of a participating electrical or gas corporation who is an individual and the owner or mortgagor of a residential dwelling and who is not in arrears in any payments due the corporation may apply to the corporation for home insulation assistance and financing.

2785. Upon approval of an application, the corporation shall arrange for a licensed contractor to perform the necessary work. Upon approval of an estimate by the customer and the corporation,

the corporation shall direct the work to commence. All attic insulation installations shall meet or exceed requirements applicable at the time of installation for newly constructed residences, except where such compliance is impossible or impractical in an existing structure and an alternative method or procedure providing satisfactory results is available. The corporation shall arrange for inspection of a representative portion of all work performed pursuant to this chapter. As used in this section, the term "attic" means any air spaces between the ceiling and roof of a residential dwelling which are accessible for the purpose of the installation of insulation.

2786. An electrical or gas corporation shall provide for payment by a customer for whom home insulation has been installed pursuant to this chapter through such periodic billing procedures as may be established by the corporation. The corporation may require an initial payment toward the insulation services of not greater than 20 percent with the balance due payable in equal installments during a period of 36 months following completion and inspection of the work, or at such greater rate of repayment as the customer may elect. Finance charges shall not be greater than the maximum allowable finance charges permitted for retail installment contracts.

2787. As an alternative to the provisions of Section 2786, an electrical or gas corporation may conclude financial arrangements with two or more lending institutions in this state engaged in making home improvement loans to provide loans to customers for purposes of home insulation pursuant to this chapter. Any such financial arrangement shall include all of the following provisions:

(a) An initial payment toward the insulation services of 20 percent of the amount thereof with the balance due payable in equal installments during a period of 36 months following completion and inspection of the work, or at such greater rate of repayment as the customer may elect.

(b) Provision for payment of the loan balance by the customer through the corporation's regular bill for public utility services, and provision that the corporation shall not be liable to the lending institution in the event of the customer's default.

(c) Provision that approval of the customer's credit shall be at the option of the lending institution.

2788. The commission shall allow for purposes of setting the rates of any electrical or gas corporation participating in a home insulation assistance and financing program all expenses which the commission finds are reasonably related to the implementation and administration of the program, including commercial advertising. Advertising of the program shall not exceed an amount per year equivalent to thirty cents ($0.30) per residential customer of the corporation. The commission shall first review and approve any advertising or promotional campaign or literature proposed for implementation or distribution by the corporation. The commission may disapprove any such advertising or promotion which the

commission finds is not reasonably designed to promote the success of the home insulation financial assistance program.

CHAPTER 1203

An act to amend Sections 14002 and 29103 of, to add Sections 64, 14002.1, 14005.1, 14005.2, 14005.3, 14006.5, 14694, 15110, 15111, 15112, 15113, 15400.1, 17100, 17101, 20502.5, 29004, 29104, 29105, 29106, and 29183 to, to repeal Sections 15110, 15111, 15601, 22931, 23512.10, 23515, and 23530.5 of, to add Article 4 (commencing with Section 14680) and Article 5 (commencing with Section 14720) to Chapter 4 of Division 9 of, to add Chapter 4 (commencing with Section 29500) to Division 15 of, to repeal Article 4 (commencing with Section 14690) of Chapter 4 of Division 9 of, to repeal Article 3 (commencing with Section 22870) of Chapter 2 of Part 2 of Division 12 of, to repeal and add Division 2 (commencing with Section 1500) to, to repeal and add Division 10 (commencing with Section 17000) to, and to repeal and add Division 16 (commencing with Section 30000) to, the Elections Code, relating to elections.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 64 is added to the Elections Code, to read:

64. Every person who desires to have his name as written on the ballots of an election counted for a particular office shall file a declaration stating that he is a write-in candidate for the nomination for or election to the particular office and giving the title of that office. The declaration shall be filed with the clerk, registrar of voters, or district secretary responsible for the conduct of the election no later than the eighth day prior to the election.

SEC. 1.1. Section 64 is added to the Elections Code, to read:

64. Every person who desires to have his name as written on the ballots of an election counted for a particular office shall file (1) a declaration stating that he is a write-in candidate for the nomination for or election to the particular office and giving the title of that office and (2) the number of sponsors' certificates, if any, required by Section 6495 for that office. The declaration and the sponsors' certificates, if any, shall be filed with the clerk, registrar of voters, or district secretary responsible for the conduct of the election no later than the 14th day prior to the election for candidates who require certification by the Secretary of State or the eighth day prior to the election for all candidates not required to be certified by the Secretary of State.

SEC. 1.2. Division 2 (commencing with Section 1500) of the Elections Code is repealed.

SEC. 2. Division 2 (commencing with Section 1500) is added to the Elections Code, to read:

DIVISION 2. PRECINCTS AND PRECINCT BOARDS

CHAPTER 1. PRECINCTS

1500. This chapter applies to all counties.

1501. The county clerk shall divide the county into election precincts and prepare detail maps or exterior descriptions thereof, or both, and as many such copies as the clerk may determine. The county surveyor shall, if so requested, provide assistance to the clerk in the preparation of such maps or exterior descriptions.

1502. Following each general election, the county clerk shall file copies of all precinct maps with the Secretary of State. If there is no change in the precinct maps from those maps which are currently on file, in lieu of filing copies of such maps with the Secretary of State the clerk may submit to the Secretary of State a written statement informing the secretary of such fact. The Secretary of State shall maintain a file of all such copies for 12 years, and shall upon request, make them available for examination.

1503. The county clerk may:

(a) Change or alter any precinct boundaries.

(b) If any changes or alterations are made the clerk shall prepare new detail maps or exterior descriptions thereof, or both. The county surveyor shall, if so requested, provide assistance to the clerk in the preparation of the detail maps or exterior descriptions.

1504. The governing body having jurisdiction over school buildings or other public buildings may authorize the use of such buildings for polling places on any election day, and may also authorize the use of such buildings, without cost, for the storage of voting machines and other vote-tabulating devices.

1505. Whenever any county is divided into election precincts or whenever the boundaries of established precincts are changed or new precincts created, the precinct boundaries shall be fixed in such manner that the number of registered voters in each precinct does not exceed 250 on the 75th day prior to the day of election, unless otherwise provided by law.

1506. When more than 250 voters are registered in a precinct, the voters of the precinct may be divided into two or more groups and one precinct board appointed to serve each group. The board or officer charged with the duty of conducting the election shall divide the voters into two or more groups as nearly equal in number as possible. When the voters of a precinct are so divided there may be one or more polling places, but there shall be a ballot box for and a set of returns from each group.

The board or officer charged with the duty of conducting the election, in determining whether or not there are 250 voters in the precinct for the purpose of this section, shall not base its

determination on an estimate of how many voters in the precinct will vote. The determination shall be made solely on registrations within the precinct.

1507. If, through unforeseen circumstances, it has not been determined until less than 30 days before the election that there are more than 250 voters to a precinct, the board or officer charged with conducting the election may divide the precinct as provided in this code.

1508. Whenever in a statewide primary or general election, the ballots are to be counted at a central place, either manually or by automatic mechanical or electrical devices, or whenever mechanical voting devices are used to mark ballots at the polling places, election precincts may be consolidated or formed, but no such precinct shall be formed or consolidated to contain more than 600 voters.

1509. In counties where voting machines are to be used, the county clerk may, at any time on or before the 30th day preceding any election, create, unite, divide, or combine the election precincts.

1510. In counties using punchcard voting systems, the officer charged with the duty of creating precincts may combine, rearrange, or enlarge the precincts, provided no direct primary or general election precinct shall include more than 1,000 voters.

1511. In any order establishing precincts, their boundaries shall be defined by reference to exterior descriptions or delineation thereof on a map or maps.

1512. Whenever the boundaries of any precinct are altered in accordance with this chapter, the county clerk shall rearrange the affidavits of registration, reprecinct, and place them in the proper precinct books.

1513. No precinct shall be established so that its boundary crosses the boundary of any supervisorial district, congressional district, senatorial district, Assembly district, judicial district, incorporated city, or ward. To the extent possible, without subjecting the voter to significant inconvenience, precinct boundaries should not cross census tract lines.

If at any election any precinct contains an insufficient number of qualified persons to make up a precinct board, the precinct may be consolidated with an adjoining precinct.

1514. The boundaries of precincts for the general election shall be the same as those established for the direct primary election, except to the extent necessary to add or subtract precincts as the result of population change or to divide precincts containing more than 250 voters or to change precinct boundaries due to supervisorial, judicial, or council district boundary changes, incorporation of new cities, annexations to cities or exclusions by cities. Changes of precinct boundaries may also be made when consolidating precincts.

1515. If the affidavit of registration of a voter is erroneously placed in a precinct, the voter may apply to the county clerk for a certificate showing the record of registration. The county clerk shall

issue the voter the certificate on or before election day. Upon presentation of this certificate to the precinct board of the proper precinct, the board shall incorporate the certificate in the book of affidavits of registration and permit the voter to vote. If the voter does not obtain the certificate provided for in this section and votes in the precinct into which the affidavit of registration has been erroneously placed by the county clerk and the election is contested, the voter's ballot shall not be rejected.

CHAPTER 2. PRECINCT BOARDS

1630. The persons appointed to serve as election officers for each precinct at any election shall constitute the precinct board for that precinct.

1631. Except as otherwise provided in this chapter the precinct board consists of one inspector, two judges, and three clerks.

1632. The clerk may, not less than 30 days prior to any election, find that a different arrangement of election officers than is prescribed in this chapter, will be more suitable and in such case may provide that the precinct board shall consist of either one inspector, one judge, and two clerks; or one inspector, one assistant inspector, and two judges; or one inspector, one judge and three clerks. If the clerk provides that the precinct board shall consist of one inspector, one assistant inspector, and two judges, the precinct board shall be implemented by four clerks, who shall commence serving upon the close of the polls and shall, together with the inspector, assistant inspector, and two judges, count the votes. The clerks shall be appointed, qualified and sworn as are other members of the precinct board.

1633. Each member of a precinct board shall be a voter of the precinct for which such member is appointed or a voter of a precinct situated in the same general area. The member shall serve only in the precinct for which appointment is received.

1634. In any case where a precinct board may be appointed, the appointing authority may also appoint a substitutive counting board at the time when, and in the manner that, the precinct board is appointed and the members shall have the same qualifications. In the event of such appointment the substitutive board shall take over immediately after the closing of the polls, the powers, rights, and duties and thereafter perform all those functions relating to counting and declaring which, under this code, devolve upon precinct boards. The duties of the precinct board officiating prior to the closing of the polls shall then cease. No member of the precinct board shall be a member of the substitutive board in the same precinct. The provisions of this code relating to precinct boards are applicable to substitutive boards, except members of the substitutive board need not reside in any particular precinct or area.

1635. (a) No person who cannot read or write the English language is eligible to act as a member of any precinct board.

(b) It is the intent of the Legislature that non-English-speaking citizens, like all other citizens, should be encouraged to vote. Therefore, appropriate efforts should be made to minimize obstacles to voting by citizens who lack sufficient skill in English to vote without assistance.

(c) Where the county clerk finds that citizens described in subdivision (b) approximate 3 percent or more of the voting-age residents of a precinct, or in the event that interested citizens or organizations provided information which the county clerk believes indicates a need for voting assistance for qualified citizens described in subdivision (b), the county clerk shall make reasonable efforts to recruit election officials who are fluent in a language used by citizens described in subdivision (b) and in English. Such recruitment shall be conducted through the cooperation of interested citizens and organizations and through voluntarily donated public service notices in the media, including newspapers, radio, and television, particularly those media which serve the non-English-speaking citizens described in subdivision (b).

(d) At least 14 days before an election, the clerk shall prepare and make available to the public a list of the precincts to which officials were appointed pursuant to this section, and the language or languages other than English in which they will provide assistance.

1636. No person is eligible to act as an election officer until the declaration required in this chapter has been signed.

1637. (a) Each inspector shall sign a declaration of intention to faithfully discharge the duties of inspector and shall return it to the clerk at least 15 days before election day. If the inspector fails or refuses to sign and file the declaration, the clerk shall appoint a substitute who shall make and file the application.

The declaration of an inspector and each of the declarations of other members of the precinct board provided for in this chapter shall be signed in the presence of a witness and shall be as binding on the signer as would be an oath of office.

The declaration of an inspector shall be in substantially the following form:

State of California }
County of _____ } ss.

I do hereby solemnly declare that I will support the Constitution of the United States and the Constitution of the State of California, and that I will to the best of my ability, faithfully discharge the duties of inspector for precinct _____ for the election to be held on _____ 19__. _____ .

Signed in the presence of _____

(Signature)

on _____ 19__.

(b) On the day of election and before entering upon the

performance of duties, each of the precinct board members, other than the inspector, shall sign a declaration of intention to faithfully discharge the duties of an election officer. The declaration shall be signed before any member of the precinct board. The form for each of the declarations shall be provided in the roster for the precinct. The declaration of the precinct board member shall be in substantially the following form:

State of California }
County of _____ } ss.

I do hereby solemnly declare that I will support the Constitution of the United States and the Constitution of the State of California, and that I will to the best of my ability, faithfully discharge the duties of precinct board member for precinct _____ for the election to be held on _____ 19__. _____ .

Signed in the presence of _____
(Signature)

on _____19__.

(c) Any precinct board member may administer and certify oaths required to be administered during the progress of an election. This authorization shall include the power to give any type of oath required of a public employee. There shall be no fee or charge for administering an oath.

(d) In lieu of signing and returning the declaration of the inspector, as provided in this chapter, the clerk may require the inspector to sign the declaration on the day of election and before entering upon the performance of these duties.

1637.5. Any voter may file an application with the clerk for the position of precinct board member. The clerk may require the application be made on specific forms supplied by the clerk.

1638. The clerk, not less than 30 days prior to an election, shall issue an order appointing the members of the several precinct boards and designating the polling places.

1639. The county clerk of any county, in appointing members of the several precinct boards to serve in the direct primary and general elections under the provisions of this code, shall permit the county central committee of each qualified political party to nominate for appointment to the precinct board a member of that party who is registered and resident in that precinct, such nomination to be made in writing to the county clerk not less than 90 days before the direct primary election. In making appointments to precinct boards from nominations submitted by political parties, the county clerk shall give preference to the nominee of any qualified political party with at least 10 percent of the registered voters in the precinct for which the nomination is made.

1640. Following the appointment of members of precinct boards, the clerk shall instruct inspectors so appointed concerning their

duties in connection with the conduct of the election which instruction shall include (1) a summary of the rights of voters, (2) the lawful grounds for challenge, (3) the proper tabulating procedures, (4) specific directions that the polls shall be kept open to the public during voting hours and throughout the period required for the tabulation of the vote, and (5) such other subject as shall assist the inspectors in carrying out their duties.

No person shall serve as an inspector of a precinct board at the election unless instruction has been received in accordance with this section, except that in the case of the emergency disability of a regular inspector, substitute inspector shall be given such instruction as may be found necessary by the clerk.

1641. Upon filing the list of names and addresses of those who have been appointed members of the precinct board, the clerk shall immediately mail or deliver to each voter so appointed, a notice stating the appointment and the position to which assigned, the penalty for failure to serve, a digest of the election laws with any further instruction the clerk may desire to make, and any other matter that the clerk determines.

1642. The county clerk shall also publish the list of the names of the precinct board members appointed and the polling places designated for each election precinct. Publication shall be pursuant to Section 6066 of the Government Code in the county where the election is to be held and in any newspaper of general circulation designated by the county clerk.

1642.3. At the time of the first publication of the list of the names of the precinct board members appointed, the county clerk shall mail or deliver to the county central committee of each qualified political party a copy of the list, and he may notify the same committee of any substitute appointments that are made until the time the notice of final order is sent to the precinct inspector.

1642.6. In a city and county the publication of the list of precinct board members referred to in Section 1642 may, in the discretion of the registrar of voters, be made only once.

1642.9. In each county where the county clerk determines that the public interest, convenience, and necessity require the local publication of the list of the names of precinct board members appointed and polling places designated for each election precinct in order to afford adequate notice of this subject to the electorate, publication of this list shall be made as provided in this section and Section 1643.

After such determination, the county clerk shall divide and distribute the list of precinct board members and polling places and cause the same to be published in newspapers of general circulation published in different places in the county as hereinafter provided for two issues, the last publication to be at least one week before the day of election.

Divisions of the list of names of the precinct board members and polling places may be published in that daily newspaper of general

circulation published or circulated in one or more cities in the county, with the exception of the county seat, which it is determined will give to the electorate in each city adequate notice of the election. If there is no daily newspaper, publication may be made in a semiweekly newspaper, a triweekly newspaper, or a weekly newspaper of general circulation which it is determined will give the electorate in the city adequate notice of the election.

The list of names of the precinct board members appointed and polling places designated for various portions of the unincorporated area of the county and of the county seat may be published in those daily, semiweekly, triweekly, or weekly newspapers of general circulation published or circulated within the various portions of the unincorporated area and the county seat, deemed by the county clerk to be those newspapers which will give adequate notice of the election to the voters of the respective portions of the unincorporated area and the county seat.

1643. The county clerk shall let the contracts for publication, pursuant to Section 1642.9, of the list of the names of precinct board members appointed and polling places designated for each election precinct, and shall determine the rate to be paid for the publication of the list or any portion of the list.

The publication rate shall be based on a common denominator of measurement for all newspapers and may be graduated according to circulation.

Contracts for the publication shall include the publication of the proper portion of the list of precinct board members and polling places and all other items relating to that portion required by law to be published.

1643.3. In any case where the provisions of this chapter require the publication of a list of the names of precinct board members, or a portion of the list, the officers charged with the duty of publication shall ascertain the name of the political party, if any, with which each such precinct board member is affiliated, as shown in the affidavit of registration of such person. When the list is published there shall be printed the name of his party or an abbreviation of the name to the right of the name, or immediately below the name, of each such precinct board member. If a precinct board member is not affiliated with a political party, the words "No party," "Nonpartisan," or "Decline to state" shall be printed in place of the party name.

1644. Whenever a precinct is entirely owned or controlled by the United States, and no permission is granted by the federal authorities for the establishment of precinct boards and polling places, precinct boards need not be appointed nor polling places designated, but in lieu thereof the clerk shall, not less than 29 days prior to election day, furnish an application blank for an absent voter ballot to each voter qualified to vote at the election, together with a statement that there will be no polling place within such precinct, and if the voter desires to vote at the election application for an absent voter ballot must be made not less than seven days before the election. The order of the

clerk shall state that in such precincts where no precinct boards are appointed nor polling places designated, the qualified voters of such precincts, if they wish to vote, shall vote by absent voter ballots.

1645. The clerk shall immediately mail or deliver to each person appointed as inspector a notice showing the precinct polling place and the voters appointed to serve as election officers in that precinct. The notice shall be substantially in the following form:

Office of the County Clerk
(or Registrar of Voters),
City Clerk or Secretary.
County of _____.

NOTICE TO INSPECTOR

To _____, inspector for _____ Precinct

The polling place for the _____ Precinct at the election to be held on _____ will be _____ and the precinct board for that precinct will be composed of you and the following named persons:

Position	Name	Address
_____	_____	_____
_____	_____	_____
_____	_____	_____

You, as inspector, before the polls are opened shall see that each of the other persons serving on the board has signed the declaration required by law and which will be found set forth in the roster and that no person is permitted to act as a precinct officer unless that person has signed such declaration and is otherwise qualified to act as a precinct officer. You shall also see that each member of the board signs the tally sheet following the tally of the votes.

_____

County Clerk, City Clerk, Secretary (or other official).

1646. In constituting precinct boards, the clerk may excuse persons appointed whom the clerk is satisfied ought to be excused. Substitutions may be made when any person appointed is excused or found disqualified or incompetent, until a final or amended list of election officers is sent to the inspector for that precinct.

1647. The amended list of officers appointed in any precinct shall be the final order of appointment for that precinct.

1648. If the precinct board members for any precinct have not been appointed or cannot serve, or the polling place has not been designated, by the 20th day prior to an election, the clerk shall by written order, immediately appoint the precinct board members or designate the polling place for the precinct, as the case may require, and shall notify each precinct board member of such appointment.

If at this time the clerk cannot make suitable arrangements for a

polling place in any precinct in which none has been designated, the clerk may designate a polling place in any contiguous precinct. Any precinct board member serving in such polling place shall be regarded as serving in the proper precinct within the meaning of this chapter.

1649. If any member of a precinct board does not appear at the opening of the polls on the morning of an election, those voters present, including members of the board, shall appoint a voter to fill the vacancy. If none of the members appointed appears at that time, the voters of the precinct present at that time may appoint a board.

1650. If, for any valid reason, the polling place designated for any precinct cannot be used and this fact is known in sufficient time to allow a mailed notice to be received before the election, the clerk may designate another polling place and shall mail, postage prepaid, to each voter in the precinct a notice showing this change.

If the information is not known in sufficient time for such mailing, the precinct board acting for that precinct, on the day of election, shall designate another polling place as near the place first designated as possible, post notice on or near the place first designated and conduct the election at the new location.

1651. The inspector shall appoint a judge or clerk to replace any judge or clerk who ceases to act or becomes incapacitated during the progress of an election.

1652. If the inspector ceases to act a majority of the remaining members of the precinct board may appoint a substitute.

1653. Each member of a precinct board shall receive compensation for services a sum fixed by the board of supervisors of the county which sum shall be paid out of the treasury of the county in which the election is held. The inspector may receive up to five dollars ($5) more compensation than the other members of the precinct board. The inspector shall receive not more than thirty-five dollars ($35) and the other members shall receive not more than thirty dollars ($30). The additional compensation to the inspector is for services rendered in securing precinct board members and other duties which may be directed by the clerk. In those precincts in which the precinct board consists of not less than four clerks in addition to the other four members of the board, the compensation received by these clerks shall be not more than fifteen dollars ($15).

1654. No public agency shall be required as the result of any assignment or transfer to pay the compensation of an election officer for services as such to any person other than the election officer to whom such compensation is due.

1655. No person shall be suspended or discharged from any service or employment because of absence while serving as an election officer on election day.

No employee of any public or municipal corporation, or public district, shall be paid any compensation by the public or municipal corporation, or public district, for any absence during which compensation is being received for service as an election officer.

SEC. 2.2. Section 14002 of the Elections Code is amended to read:

14002. The county clerk shall furnish to the election officers:

(a) Original books of affidavits of registration.

(b) Printed copies of the indexes.

(c) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations and returns.

(d) Envelopes in which to enclose returns.

(e) Not less than six nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14011, 14012, 14211, 14212, 14407, 14408, 14416, 14418, 14420, 14422, 14432, 14433, 14434, 14435, 17002, 17003, 17009, 17011, 17013, 17014, 17015, and 29001.

(f) A digest of the election laws with any further instructions the county clerk may desire to make.

SEC. 2.3. Section 14002 of the Elections Code is amended to read:

14002. The county clerk shall furnish to the election officers:

(a) Printed copies of the indexes.

(b) Necessary printed blanks for the roster, tally sheets, lists of voters, declarations and returns.

(c) Envelopes in which to enclose returns.

(d) Not less than six nor more than 12 instruction cards to each precinct for the guidance of voters in obtaining and marking their ballots. On each card shall be printed necessary instructions and the provisions of Sections 14011, 14012, 14211, 14212, 14407, 14408, 14416, 14418, 14420, 14422, 14432, 14433, 14434, 14435, 17002, 17003, 17009, 17011, 17013, 17014, 17015, and 29001.

(e) A digest of the election laws with any further instructions the county clerk may desire to make.

SEC. 2.4. Section 14002.1 is added to the Elections Code, to read:

14002.1. The county clerk shall furnish to each member of a precinct board a badge or other insignia identifying him as a member of the board. The precinct board member shall print his name and precinct number thereon and shall wear the badge or insignia at all times in the performance of his duties, so that he may readily be identified as a member of the precinct board by all persons entering the polling place.

SEC. 2.5. Section 14005.1 is added to the Elections Code, to read:

14005.1. The clerk shall provide one official ballot for each voter in the precinct, and for absentee and emergency purposes shall provide such additional number of ballots as may be necessary.

The number of party ballots to be furnished to any precinct for a primary election shall be computed from the number of voters registered in that precinct as intending to affiliate with a party, and the number of nonpartisan ballots to be furnished to any precinct shall be computed from the number of voters registered in that precinct without statement of intention to affiliate with any of the

parties participating in the primary election.

SEC. 2.6. Section 14005.2 is added to the Elections Code, to read:

14005.2. Before the opening of the polls at any election within any county, the county clerk shall cause to be delivered to the precinct board in each precinct in which the election is to be held the proper number of ballots of the kind to be used in the precinct. The ballots shall be delivered in sealed packages with marks on the outside clearly designating the precinct or polling place for which they are intended, and the number of ballots enclosed. In the case of a city and county, the proper number of municipal ballots shall be delivered. The clerk or secretary of any city shall in like manner cause to be delivered the proper number of municipal ballots.

SEC. 2.7 Section 14005.3 is added to the Elections Code, to read:

14005.3. The county clerk, or clerk or secretary of any city, shall prepare a receipt for each polling place, enumerating the packages and stating the time and date when they were delivered to the precinct board member. The precinct board member shall sign the receipt upon receipt of the packages, which receipt shall forthwith be returned and filed. The county clerk, or clerk or secretary, may employ messengers to insure the safe and expeditious delivery of the ballots to the precinct board member and shall fix a reasonable compensation for the services of those messengers, to be paid as other election expenses are paid.

SEC. 3. Section 14006.5 is added to the Elections Code, to read:

14006.5. The members of each precinct board shall distribute the duties devolving upon the precinct board, which are in addition to their individual duties, in such manner as they deem most advantageous.

SEC. 3.1. Article 4 (commencing with Section 14680) is added to Chapter 4 of Division 9 of the Elections Code, to read:

Article 4. Canvass

14680. This article shall be liberally construed in favor of the absent voter.

14681. At any time after 5 o'clock p.m. on the day before the day of the election, the county clerk shall commence to process the absent voter ballots, and, on election day, the county clerk shall commence to count such ballots; provided that the results of the tally of such absentee ballots shall not be released until after the closing of the polls. This processing and counting shall be continuous and without adjournment until completed and the result thereof tallied and returned.

The term "canvass," as used in this article means to process absent voter ballots in the manner specified in this article

14682. The county clerk may appoint either of the following to assist him to count and canvass the absent voter ballots:

(a) Special canvassing boards, to consist of five voters for each canvassing board, to canvass each 350 ballots or portion thereof.

(b) A single canvassing board of such number as the county clerk deems necessary, to count and canvass all of the absent voter ballots cast in the county.

14683. Where the special canvassing board consists of more than five voters, five of them shall be designated to pass upon challenges and all questions relating to the marking of the ballots. Special forms of tally books or tally sheets may be prescribed by the county clerk and the duties of counting and canvassing may be distributed among the members of the special canvassing board by the county clerk in any manner which in the opinion of the county clerk will assure a true and accurate count. The tally for each office or proposition shall be made by not less than four members, one to read from the ballots, another to keep watch of the vote thereon and to keep a check on any possible illegal vote or on any error or omission on the part of the officer reading or calling the ballot, and two to keep the tally upon the books or sheets provided therefor.

14684. The county clerk shall pay a reasonable compensation to each member of the canvassing board for his services rendered in the canvass of the absent voter ballots made by him. This compensation is payable out of the treasury of the county as other claims against it are paid.

14685. Except as otherwise provided, the canvass of votes and disposition of challenges for any election shall be according to the laws now in force pertaining to that election, except that the challenger shall have the burden of establishing the grounds of the challenge.

The city clerk of a city or the election board or officer charged with the conduct of an election in any other political subdivision shall have the same powers, in connection with the count of absent voter ballots, as are conferred upon the county clerk by this article.

14686. The county clerk as soon as he has completed the canvass of all absent voter ballots shall report his findings to the Secretary of State as to the offices and measures prescribed in Section 17071. The county clerk shall also immediately make public the results of the absentee vote canvass as to all offices and measures appearing upon the ballot.

14687. Unless the context otherwise requires, as used in this article, "board" means a canvassing board appointed, pursuant to this article or under any provision of law, by the county clerk or by the city clerk of a city or the election board or officer charged with the conduct of an election in any other political subdivision to count votes cast by absent voters. If the election board of any political subdivision canvasses the absent voter ballots, the term "board" means the election board.

14688. In beginning the canvass the board shall take up the identification envelopes containing the ballots separately in the presence of a majority of the members of the board, and of the public who may be present.

14689. In beginning the canvass for an election in any city or in

any district, the board shall take up the identification envelopes containing the ballots separately in the presence of a majority of the members of the board, and of the public who may be present, and compare the signature of the voter on each of these envelopes with that on the application of the voter which has previously been compared with the signature on the registration affidavit of the voter by the city clerk of the city or the secretary or other officer having charge of the election in any district.

14690. The board shall announce audibly the voter's name, whereupon a challenge may be interposed against the counting or deposit of the absent voter ballot for counting, upon either or all of the grounds available against a person attempting to vote at a polling place. A challenge may also be interposed upon the ground that the ballot was not mailed within the time prescribed by law.

14691. A variation between the signature on the identification envelope and the signature on the registration affidavit caused by the substitution of initials instead of the first or middle names, or both, or of names instead of first or middle initials, or both, shall not invalidate the ballot if the surname and handwriting are the same.

14692. If a challenge is overruled, the board shall then open the identification envelope without defacing the affidavit printed on it or mutilating the enclosed ballot, and, without unfolding the ballot, shall remove the number from the ballot, destroy the number slip and deposit the ballot in the ballot box provided for the purpose.

14693. If a challenge is allowed, the board shall endorse on the face of the identification envelope the cause of the challenge and its action thereon.

14694. If in any case a majority of the board finds that the signature on any identification envelope is not the same as that appearing on the duplicate affidavit of registration of the voter, the board shall refuse to open the envelope or count the ballot. It shall endorse the cause of the rejection on the face of the identification envelope. A majority of the board shall sign the endorsement. No ballot shall be rejected for such cause after the envelope containing it has been opened.

14695. After all the ballots are deposited in the box, the box shall be thoroughly shaken. On the day of election, all ballots shall be unfolded and examined for any irregularities. Any illegal ballots shall be rejected in the manner set forth in Section 17007. Those ballots not rejected shall be placed open in one pile, and the board shall proceed to count by taking off the vote for one or more offices or measures at a time. In the case of a primary election, the unrejected ballots shall be segregated on the basis of political parties prior to placing them in one pile.

No information regarding the result of the count shall be released until after the close of the polling places.

14696. The board shall tabulate the result of the count for each candidate voted for, and for and against each measure voted upon, under the heading "absentee vote," regardless of the precincts

within which the absentee voters are registered.

14697. The board shall add the total of the votes cast in each precinct for each of the candidates and for and against each measure voted upon to the total for each candidate and for and against each measure tabulated under the heading "absentee vote."

14698. The count and canvass of absent voter ballots shall be completed after an immediate count by the staff of the county clerk and included with the canvass of returns from the precincts.

14699. The county clerk shall keep an accurate list of all voters who have received and voted an absent voter ballot at each direct primary and general election and compare this list with the roster of voters as provided in Section 386.

SEC. 3.2. Section 14694 is added to the Elections Code, to read:

14694. If in any case a majority of the board finds that the signature on any identification envelope is not the same as that appearing on the affidavit of registration of the voter, the board shall refuse to open the envelope or count the ballot. It shall endorse the cause of the rejection on the face of the identification envelope. A majority of the board shall sign the endorsement. No ballot shall be rejected for such cause after the envelope containing it has been opened.

SEC. 3.3. Article 4 (commencing with Section 14690) of Chapter 4 of Division 9 of the Elections Code is repealed.

SEC. 3.4. Article 5 (commencing with Section 14720) is added to Chapter 4 of Division 9 of the Elections Code, to read:

Article 5. Penal Provisions

14720. Any person attempting to aid or abet fraud in connection with any vote cast or to be cast, or attempted to be cast, under the provisions of this chapter is guilty of a felony, punishable by imprisonment for not less than one nor more than five years.

14721. Any person attempting to vote an absent voter's ballot by fraudulently signing the name of a regularly qualified voter is guilty of forgery.

14722. Any public official who knowingly violates any of the provisions of this chapter, and thereby aids in any way the illegal casting or attempting to cast a vote, or who connives to nullify any of the provisions of this chapter in order that fraud may be perpetrated, shall forever be disqualified from holding office in this state, and shall forever be disqualified from exercising the right of franchise, and upon conviction shall be sentenced to a state prison for not less than one nor more than five years.

SEC. 3.5. Section 15110 of the Elections Code is repealed.

SEC. 4. Section 15110 is added to the Elections Code, to read:

15110. The precinct board where voting machines are used shall consist of one inspector and two judges who shall be appointed pursuant to the law governing general elections where voting machines are not used, except as otherwise provided in this code.

The judges shall act as clerks.

SEC. 4.5. Section 15111 of the Elections Code is repealed.

SEC. 5. Section 15111 is added to the Elections Code, to read:

15111. Where more than one voting machine is used in any precinct there shall be appointed an additional inspector or judge for each additional machine. At the discretion of the clerk, additional judges may be appointed, not to exceed one additional judge for each additional machine.

SEC. 6. Section 15112 is added to the Elections Code, to read:

15112. Where part of the ballot is voted upon paper and part upon voting machines, there shall be appointed an additional inspector.

SEC. 6.1. Section 15113 is added to the Elections Code, to read:

15113. In the filling of any vacancy in a precinct board that may occur within 10 days of the day of election, the county clerk may appoint, without reference to a particular precinct, to any such vacancy any voter who has been fully instructed in the use and operation of the voting machine and is competent to act in either capacity as inspector or judge of the precinct board.

SEC. 7. Section 15400.1 is added to the Elections Code, to read:

15400.1. The county clerk may provide that local elections in precincts of fewer than 500 voters where ballots are to be counted by means of electronic or electromechanical devices pursuant to this chapter or a punchcard voting system as provided in Chapter 8 (commencing with Section 15600) of this division the precinct board may consist of one inspector and two judges who shall be appointed pursuant to the law governing general elections where such device is not used, except as otherwise provided in this chapter. In such case the judges shall act as clerks.

SEC. 7.5. Section 15601 of the Elections Code is repealed.

SEC. 8. Division 10 (commencing with Section 17000) of the Elections Code is repealed.

SEC. 9. Division 10 (commencing with Section 17000) is added to the Elections Code, to read:

DIVISION 10. CANVASS, DECLARATION OF RESULTS

CHAPTER 1. VOTE COUNT IN THE PRECINCT

17000. The provisions of this chapter apply to all elections, except elections for which specific provision otherwise is made by law.

17001. As soon as the polls are finally closed, the precinct board shall commence to count the votes by taking the ballots cast, unopened, out of the box and counting them to ascertain whether the number of ballots corresponds with the number of signatures on the roster.

17002. The precinct board shall make a record upon the roster of the number of ballots in the ballot box, the number of signatures on the roster, and the difference, if any.

17003. Neither the clerk, any member of a precinct board, nor any other person shall count any votes, either for a ballot proposition or candidate, until the close of the polls in that county. After such time, the ballots for all candidates and ballot propositions voted upon solely within the county shall be counted and the results of such balloting made public; provided, however, that the results for any candidate or ballot proposition also voted upon in another county or counties shall not be made public until after all the polls in that county and such other county or counties have closed. The provisions of this paragraph shall apply regardless of whether the counting is done by manual tabulation or by a vote tabulating device.

In any county in which a voting machine is used, there shall be no reading or observation of counters until the close of the polls in that county.

17004. The count shall be public and shall be continued without adjournment until completed and the result is declared. During the reading and tallying, the ballot read and the tally sheet kept shall be within the clear view of watchers.

17005. Unless otherwise provided in this code, the precinct board members shall not constitute themselves into separate squads in an attempt to conduct more than one count of the ballots at the same time.

17006. The members of the precinct board may relieve each other in the duties of counting ballots.

17007. The count shall be conducted by at least four members of the precinct board. All ballots shall be unfolded and examined for irregularities. Any ballot which is not marked as provided by law or is marked or signed by the voter so that it can be identified by others shall be rejected.

The following do not render a ballot invalid:

(a) Soiled or defaced.

(b) Two or more impressions of the voting stamp in one voting square.

(c) If a voter indicates either by a combination of both stamping and writing in, a choice of more names than there are candidates to be elected or nominated for any office, or if for any reason the choice of the voter is impossible to determine, the vote for that office shall not be counted, but the remainder of the ballot, if properly marked, shall be counted.

The rejected ballots shall be placed in the package marked for voted ballots or in a separate container as directed by the clerk. All rejected ballots shall have written thereon the cause for rejection and be signed by a majority of the precinct board members.

17008. Those ballots not rejected shall be placed in one pile, and the board shall proceed to count by taking off the vote for one or more offices or measures at a time.

In a primary election, the unrejected ballots shall be segregated on the basis of political parties prior to placing them in one pile.

17009. The precinct board members shall ascertain the number

of votes cast for each person and for and against each measure in the following manner:

One precinct board member shall read from the ballots. As the ballots are read, at least one other precinct board member shall keep watch of each vote so as to check on any possible error or omission on the part of the officer reading or calling the ballot.

17010. Two of the precinct board members shall each keep a tally sheet which shall be in such form as may be prescribed by the clerk. Each tally sheet shall contain:

(a) The name of each candidate being voted for and the specific office for which each candidate is being voted. The offices shall be in the same order as on the ballot.

(b) A list of each measure being voted upon.

(c) Sufficient space to permit the tallying of the full vote cast for each candidate and for and against each measure.

The precinct board members keeping the tally sheets shall record opposite each name or measure, with pen or indelible pencil, the number of votes by tallies as the name of each candidate or measure voted upon is read aloud from the respective ballot.

Immediately upon the completion of the tallies, the precinct board members keeping such tally shall draw two heavy lines in ink or indelible pencil from the last tally mark to the end of the line in which the tallies terminate and initial that line. The total number of votes counted for each candidate and for and against each measure shall be recorded on the tally sheets in words and figures.

17011. No precinct board member shall make any tally of votes in any other manner than is provided in this chapter, nor in any other place than on the tally sheets provided for that purpose.

17012. The ballots, as soon as all of the names and measures marked on them as voted for are read and tallied, shall not thereafter be examined by any person, but, as soon as all are counted, shall be carefully sealed in a strong envelope. The signatures of each member of the precinct board shall be written across the seal.

17013. The precinct board shall complete all furnished forms.

17014. The precinct board shall sign and post conspicuously on the outside of the polling place a copy of the result of the votes cast. The copy shall remain posted for at least 48 hours after the official time fixed for the closing of the polls.

CHAPTER 2. RETURN OF SUPPLIES TO THE CLERK

17020. The precinct board, as soon after the polls are closed as it is possible to do so, shall prepare the supplies, including the copies of the index posted at or near the polling place, and records of the election for delivery to the clerk.

17021. The precinct board shall enclose and seal in one or more packages, as determined by the clerk, the voted, spoiled, canceled and unused ballots.

17022. The precinct board shall enclose and seal in one or two

packages, as determined by the clerk:

(a) Two tally sheets.

(b) The roster of voters.

(c) The copy of the index used as the voting record.

(d) The challenge list.

(e) The assisted voter's list.

(f) The affidavits of persons assisting voters.

17023. The register shall constitute another package, and, if the clerk so determines, shall be enclosed in a wrapper and sealed.

17024. The precinct board shall immediately transmit, unsealed, to the clerk a statement showing the result of the votes cast at the polling place. It shall be open to public inspection.

17025. The sealed packages containing the register, lists, papers, and ballots shall be delivered by two of its members without delay, unopened, to the clerk or to a receiving station designated by the clerk.

17026. No list, tally, paper, or certificate returned from any election shall be set aside or rejected for want of form, nor because it is not strictly in accordance with the directions of this code, if it can be satisfactorily understood.

CHAPTER 3. SNAP TALLIES

17030. Before any election, the governing body of the jurisdiction holding the election may decide that certain offices or measures to be voted on are of more than ordinary public interest and require an early tabulation and announcement. Such decision shall be transmitted to the clerk not less than 30 days before the election.

17031. The clerk shall prepare and forward to each selected precinct forms containing a list of the offices and measures designated as being of more than ordinary interest, and stating the number of ballots to be counted for the snap tally. The special form must, for each office listed on it, include the names of all candidates for that office whose names appear on the ballot.

The inspector at each selected precinct shall note the results of the count and the total number of votes cast in the precinct on the snap tally forms as soon as the designated number of ballots has been tallied. The inspector shall then communicate the figures in the manner directed by the clerk. Such figures must include the votes cast for every candidate whose name appears on the ballot for an office listed on the forms. The inspector shall continue, each time the designated number of ballots have been tallied, to note and report the results as directed.

17032. Upon receipt from the precincts of the reports of votes cast on the specially designated offices and measures, the clerk shall tabulate the results and make the results available to the public. All such reports of the election results shall include the votes cast for all candidates whose names appear on the ballot for each office for which returns are reported.

17033. In the event ballots are counted by means of electronic, electromechanical or punchcard device, the clerk may provide for early tabulation and announcement of the returns in a manner consistent with the use of the tabulating devices.

CHAPTER 4. SUPPLEMENTAL COUNTING BOARDS

17040. This chapter applies in precincts in which a supplemental counting board has been assigned.

17041. The eight-member board shall be divided into two four-member boards. The inspector shall be in charge of group 1 and the assistant inspector shall be in charge of group 2.

The clerk shall prepare and furnish two tally sheets for each group, each set distinctly marked for that group. Each set shall be designed to permit the tally of approximately one-half of the sum total of candidates or measures appearing on the ballots for the precinct. Candidates and measures shall be listed as provided in Section 17010.

The clerk shall determine the number of ballots to be tallied before the ballots are passed from group 1 to group 2. As soon as the proper number of ballots have been tallied by group 1 for as many offices or measures as provided for in their tally sheets, the inspector shall deliver the tallied ballots to group 2. The ballots, upon being tallied by group 2, shall remain in the possession of the assistant inspector until the count of all ballots by both groups has been completed.

17042. The declaration of results shall be made in the manner provided when a four-member board is utilized.

CHAPTER 5. VOTE COUNT IN A CENTRAL PLACE

17050. The governing body of any jurisdiction may by resolution provide that all ballots or certain precincts shall be tallied at a central place and not at the precincts. This resolution shall be adopted not less than 25 days before the election and shall specify the public place to be used.

17051. The governing body shall give notice of the designation of a central counting place in one of the following ways:

(a) By at least one publication in a newspaper of general circulation in the jurisdiction where the election is to be held.

(b) If a newspaper of general circulation is not published in that jurisdiction, then by prominently posting the notice in the office of the clerk of the governing body.

17052. As soon as the polls are closed, the precinct board shall, in the presence of the public:

(a) Seal the ballot box and insure that the precinct number is designated on the ballot box.

(b) Certify, sign and seal the several packages or envelopes as directed by the clerk.

(c) By not less than two of their number, deliver the ballot box and packages to the clerk at the central counting place in the manner

prescribed by the clerk. The ballot box and packages shall remain in their exclusive possession until delivered by the clerk.

17053. Persons may be employed to count, tally, and certify the ballots if they are not candidates at the election and if they:

(a) Have the qualifications required for precinct board members, or,

(b) Are deputies or employees of either:

(1) The governing board, or

(2) The clerk.

None of the persons selected to count ballots need reside in any particular precinct.

17054. The clerk or any deputy authorized by the clerk may excuse or dismiss any person from any counting board and enforce the order.

17055. The clerk or authorized deputy shall segregate the persons employed to count the ballots into counting boards. These counting boards shall be deemed to be precinct boards, and are subject to all laws governing precinct boards where ballots are counted at the polling place.

17056. Each counting board, in the same manner as provided where ballots are counted at the polling place, shall proceed to count and tally the ballots by precincts, separately, under the direction of the clerk or authorized deputies.

17057. The clerk shall prepare and provide tally sheets. The tally sheets shall be in duplicate, to be kept by two counting board members. There shall be a certificate at the end of the tally sheet to the effect that the foregoing is the correct result of the election in the precinct. The persons who completed the tally sheet and return shall sign the certificate. Upon completion, one copy of the tally sheet shall be sealed in an envelope, which shall be signed across the flap in the manner provided where votes are counted in the precinct. The other tally sheet shall remain open for inspection in the clerk's office for six months from the date of the election.

17058. The counting of votes shall be in the presence of the public and shall be continuous and without adjournment until completed.

17059. The clerk shall keep the returns in the same manner as if they had been counted at the precinct and returned. The returns shall be securely kept until produced for the official canvass.

CHAPTER 6. ELECTION RETURN CENTERS

17060. The governing body of the jurisdiction may establish one or more election return centers for the purpose of facilitating the compilation of election returns and expediting their announcement to the public.

17061. In establishing a return center the governing body may designate a group of precincts which the center shall serve. The election return center may be at any public place as the governing body designates.

17063. Upon receipt of the copies of the result of votes cast from the precinct boards, the clerk shall tabulate, total and make available to the public the results so received as to the offices and measures.

CHAPTER 7. SEMIOFFICIAL CANVASS

17070. For every election the clerk shall conduct a semiofficial canvass by compiling the returns as shown on the result of the votes cast turned in after the precinct boards have completed their count at the polls. The semiofficial canvass shall commence immediately upon the first returns from the precinct and shall continue without adjournment until all precincts are accounted for.

17071. The clerk shall transmit the semiofficial returns to the Secretary of State in the manner and according to the schedule prescribed by the Secretary of State prior to each election, for:

(a) All candidates voted for statewide office.

(b) All candidates voted for the following offices:

(1) State Assembly.

(2) State Senate.

(3) Representative in Congress.

(4) Member of the State Board of Equalization.

(c) In presidential years, all persons voted for at the presidential primary or for electors of President and Vice President of the United States, depending on the election involved.

(d) Statewide ballot measures.

The clerk shall transmit the returns to the Secretary of State at intervals no greater than two hours, following commencement of the semiofficial canvass.

CHAPTER 8. OFFICIAL CANVASS

17080. This chapter applies to all elections.

17081. The clerk shall conduct the official canvass, commencing not later than the first Thursday following each election.

17082. The canvass may be made at any public place as the clerk designates.

17083. The canvass shall be public and shall be conducted by opening the returns and determining the vote for each person and for and against each measure voted upon at the election, and declaring the result thereof.

17084. The canvass shall be continued daily, Saturdays, Sundays and holidays excepted, for not less than six hours each day until completed.

17085. If the returns from any precinct are incomplete, ambiguous, not properly authenticated, or otherwise defective, the clerk may issue and serve subpoenas requiring members of the precinct board to appear and be examined under oath concerning the manner in which votes were counted and the result of the count in their precinct.

17086. In jurisdictions using a central counting place, the clerk may appoint not less than three deputies to open the envelopes or containers in the precinct returns. If, after examination, any precinct return is still incomplete, ambiguous, not properly authenticated, or otherwise defective, the members of the counting board may be summoned before the clerk to correct the errors or omissions.

17087. The clerk shall not open any ballots nor permit any ballots to be opened except as permitted in Sections 17085 and 17086, or in the event of a recount.

17088. The clerk shall prepare a certified statement of the results of the election and submit it to the governing body within 28 days of the election.

17089. The statement of the result shall show:

(a) The total number of ballots cast.

(b) The number of votes cast at each precinct for each candidate and for and against each measure.

(c) The total number of votes cast for each candidate and for and against each measure.

The statement of the result shall also show the number of votes cast in each city, Assembly district, congressional district, senatorial district and supervisorial district located in whole or in part in the county, for each candidate for the offices of presidential elector and all statewide offices, depending on the offices to be filled, and on each statewide ballot proposition.

17090. The clerk shall forthwith send to the Secretary of State by registered mail one complete copy of all returns as to:

(a) All candidates voted for statewide office.

(b) All candidates voted for the following offices:

(1) Member of the Assembly.

(2) Member of the Senate.

(3) Representative in Congress.

(4) Member of the State Board of Equalization.

(5) Judge, except judge of an inferior court.

(c) All persons voted for at the presidential primary. The returns for all persons voted for at the presidential primary for delegates to national conventions shall be canvassed first and shall be sent separately within 25 days after the election.

(d) At presidential elections, the vote given for persons for electors of President and Vice President of the United States. The returns for presidential electors shall be endorsed "Presidential Election Returns," and sent separately.

(e) All statewide measures.

17091. The clerk shall deliver a duplicate of the certified statement of the result of votes cast to the chairman of the county central committee of each party.

CHAPTER 9. CANVASS OF WRITE-IN VOTES

17100. Any name written upon a ballot shall be counted unless prohibited by Section 17101, for the office under which it is written, if it is written in the blank therefor, whether or not a cross (+) is stamped or made with pen or pencil in the voting square after the name so written.

17101. No name written upon a ballot in any election shall be counted for an office or nomination unless a declaration has been filed pursuant to Section 64 declaring a write-in candidacy for that particular person for that particular office or nomination.

CHAPTER 10. ANNOUNCEMENT OF RETURNS

17110. The person who receives a plurality of the votes cast for any office is elected or nominated to that office in any election, except:

(a) An election for which different provision is made by any city or county charter.

(b) A municipal election for which different provision is made by the laws under which the city is organized.

(c) The election of local officials in primary elections as specified in Article 7 (commencing with Section 6610) of Chapter 2 of Division 5.

17111. The governing body shall declare elected or nominated to each office voted on at each election under its jurisdiction the person having the highest number of votes for that office, or who was elected or nominated under the exceptions noted in Section 17110. The governing board shall also declare the results of each election under its jurisdiction as to each measure voted on at such election.

17112. The clerk shall make out and deliver to each person elected or nominated, as declared by the governing body, a certificate of election or nomination, signed and authenticated by the clerk.

17113. Whenever a candidate whose name appears upon the ballot at any election dies after the hour of 12:01 a.m. of the 59th day before the election, the votes cast for such deceased candidate shall be counted in determining the results of the election for the office for which the decedent was a candidate. If the deceased candidate receives a majority of the votes cast for the office, he shall be considered elected and the office to which he was elected shall be vacant at the beginning of the term for which he was elected. The vacancy thus created shall be filled in the same manner as if the candidate had died subsequent to taking office for that term.

CHAPTER 11. DUTIES OF THE SECRETARY OF STATE

17120. The Secretary of State, commencing with the first returns from the semiofficial canvass received from the clerks, shall compile

the returns for the offices and measures mentioned in Section 17071, which compilation shall be continued without adjournment until completed. The Secretary of State shall immediately make public the results of the compilation as to such offices and measures.

17121. Except as to presidential electors, the Secretary of State shall, not later than the 39th day after the election, compile the returns for:

(a) All candidates for statewide office.

(b) All candidates for:

(1) The Assembly.

(2) The State Senate.

(3) Congress.

(4) The State Board of Equalization.

(5) Judicial offices, except judges of an inferior court.

(c) All statewide measures.

The Secretary of State shall make out and file a statement of the vote.

17122. Following the filing of the statement of the vote, the Secretary of State, upon the basis of the information provided, shall compile a supplement to the statement of the vote, showing the number of votes cast in each county, city, Assembly district, senatorial district, congressional district and supervisorial district for each candidate for the offices of presidential elector, Governor, and United States Senator, depending on the offices to be filled, and on each statewide ballot proposition. A copy of this supplement shall be made available, upon request, to any elector of this state.

17123. The Secretary of State shall make out and deliver, or transmit by mail, a certificate of election or nomination to each person elected or nominated.

17124. On the first Monday in the month following the election, or as soon as the returns have been received from all the counties in the state, if received before that time, the Secretary of State shall analyze the votes given for presidential electors, and certify to the Governor the names of the proper number of persons having the highest number of votes. The Secretary of State shall thereupon issue and transmit to each such presidential elector a certificate of election. The certificate shall be accompanied by a notice of the time and place of the meeting of the presidential electors and a statement that each presidential elector will be entitled to a per diem allowance and mileage in the amounts specified.

CHAPTER 12. DISPOSITION OF BALLOTS AND SUPPLIES BY THE CLERK

17130. The records and supplies of any election when received by the clerk shall be disposed of in the manner set forth in this chapter.

17131. The package containing the register shall be opened immediately and the register returned to its usual place and use in the office of the clerk.

17132. The clerk shall retain in custody the package or packages described in Section 17022. All voters may inspect the contents of the package or packages at all times following commencement of the official canvass of the votes. The package or packages shall be disposed of in the same manner as voted ballots.

17133. The package containing the voted ballots shall be kept by the clerk, unopened and unaltered, for six months subsequent to the date of the declaration of the result of the election.

If a contest is not commenced within the six months period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots or forgery of absent voters' signatures is not commenced within the six months period, either of which may involve the vote of the precinct from which voted ballots were received, the clerk may have the ballots destroyed or recycled. This section shall also apply to absent voter ballots and identification envelopes.

17134. If a contest or any such criminal prosecution has been commenced prior to the date fixed for its destruction, the package containing the voted ballots shall be subject to the order of the court in which the contest or criminal prosecution is pending and shall not be destroyed until after final determination of the contest or criminal prosecution.

In the case of a congressional election contest, the clerk shall hold the ballots of that congressional district in custody subject to the inspection of any committee of the House of Representatives having in charge the investigation of the contest, until the final determination of the contest by the House of Representatives.

In the case of a contest in the State Legislature, the clerk shall hold the ballots of the Senate or Assembly district in custody subject to the inspection of any committee of the Senate or Assembly having in charge the investigation of the contest until the final determination of the contest or the final adjournment of the session of the Legislature in which the contest is filed, whichever is the later.

In no event shall the package or its contents be taken from the custody of the clerk.

17135. The package containing the spoiled, canceled and unused ballots shall remain in the custody of the clerk, and shall be held and disposed of as are the voted ballots.

CHAPTER 13. RECOUNT

17140. This chapter applies to all elections, both final and primary, for which other provision is not made by law.

17141. The clerk may order that the ballots voted in a precinct be publicly recounted if:

(a) The returns from any precinct show a total of votes cast for all candidates for any office or for or against any measure in excess of the number of votes cast in the precinct.

(b) The clerk has examined the precinct board members under

oath and the precinct board members are unable to correct the returns of their respective precincts.

(c) No election contest is pending wherein a recount of the ballots in that precinct has been or will be ordered.

17142. At any time prior to the fourth day following completion of the official canvass, any candidate for an office, or authorized representative of a ballot measure, may file with the clerk a declaration requesting a recount of the votes cast for all candidates for the office or measure, in all precincts wherein votes were cast for the office or measure. The declaration may specify the order in which the precincts shall be recounted.

17143. The candidate or authorized representative of a ballot measure requesting the recount shall, before the recount is commenced and at the beginning of each day following, deposit with the clerk such sum as the clerk requires to cover the cost of the recount for that day. The money deposited shall be returned to the depositor if, upon the completion of the recount, the candidate filing the declaration, or the measure for which the declaration is filed, is found to have received the plurality of the votes cast. If the candidate or measure has not received the plurality of the votes cast, the depositor shall be entitled to the return of any money deposited in excess of the cost of the recount. Money not required to be refunded shall be deposited in the appropriate public treasury.

17144. The clerk shall post a notice and shall notify all candidates or authorized representatives of the ballot measure of the date and place of the recount.

17145. The recount shall be conducted under the supervision of the clerk by special recount boards consisting of four voters of the county appointed by the clerk. Each member of a recount board shall receive the same compensation per day as is paid in the county to members of precinct boards, other than inspectors, to be paid out of the appropriate public treasury.

17146 The recount shall be commenced not more than seven days following the order or declaration requesting the recount, and shall be continued daily, Saturdays, Sundays and holidays excepted, for not less than six hours each day until completed.

17147. In counties using punchcard voting systems, or electronic or electromechanical vote-tabulating devices, the candidate making the request for recount may select whether the recount shall be conducted manually or mechanically.

17148. All ballots, whether voted or not, and any other relevant material may be examined as part of any recount, if the candidate so requests.

17149. On recount, ballots may be challenged for incompleteness, ambiguity, or other defects, in accordance with the following procedure:

(a) The person challenging the ballot shall state the reason for the challenge.

(b) The official counting the ballot shall count it as he or she

believes proper and then set it aside with a notation as to how it was counted.

(c) The clerk or registrar of voters shall, before the recount is completed, determine whether the challenge is to be allowed. The decision of the clerk is final.

17150. In lieu of the returns of the precinct board, on the completion of the recount there shall be entered the result of the recount in each precinct affected, which result shall, for all purposes thereafter, be the official returns of that precinct for the office or measure involved in the recount. The results of any recount which is not completed by counting the votes in each and every precinct in which votes were cast for the office or measure shall be declared null and void.

17151. A copy of the results of any recount conducted pursuant to this chapter shall be posted conspicuously in the office of the clerk.

17152. This chapter does not:

(a) Authorize the opening or recounting of ballots for any precinct except for the purposes specified in this chapter.

(b) Limit other provisions of law regarding an election contest or recount.

SEC. 10. Section 17100 is added to the Elections Code, to read:

17100. Any name written upon a ballot, including a reasonable facsimile of the spelling of such a name, shall be counted, unless prohibited by Section 17101, for the office under which it is written, if it is written in the blank space therefor, whether or not a cross (+) is stamped or made with pen or pencil in the voting square after the name so written.

SEC. 10.1. Section 17101 is added to the Elections Code, to read:

17101. No name written upon a ballot in any election shall be counted for an office or nomination unless, pursuant to Section 64, there has been filed a declaration and the number of sponsors' certificates required, if any.

SEC. 10.2. Section 20502.5 is added to the Elections Code, to read:

20502.5. When two or more persons have an equal and highest number of votes for either Governor or Lieutenant Governor, the Secretary of State shall deliver a certificate to that effect to each of the tied candidates. Each tied candidate may present such certificate to the Legislature in such manner as he sees fit.

SEC. 11. Article 3 (commencing with Section 22870) of Chapter 2 of Part 2 of Division 12 of the Elections Code is repealed.

SEC. 12. Section 22931 of the Elections Code is repealed.

SEC. 13. Section 23512.10 of the Elections Code is repealed.

SEC. 14. Section 23515 of the Elections Code is repealed.

SEC. 15. Section 23530.5 of the Elections Code is repealed.

SEC. 16. Section 29004 is added to the Elections Code, to read:

29004. Every person who in any manner so interferes with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, as to

prevent the election or canvass from being fairly held and lawfully conducted, is guilty of a felony.

SEC. 17. Section 29103 of the Elections Code is amended to read:

29103. Every person is punishable by imprisonment in the state prison for not less than two nor more than seven years who:

(a) Aids in changing or destroying any poll list or official ballot.

(b) Aids in wrongfully placing any ballots in the ballot box or in taking any therefrom.

(c) Adds or attempts to add any ballots to those legally polled at any election by fraudulently putting them into the ballot box, either before or after the ballots therein have been counted.

(d) Adds to or mixes with, or attempts to add to or mix with, the ballots polled, any other ballots, while they are being counted or canvassed or at any other time, with intent to change the result of the election, or allows another to do so, when in his power to prevent it.

(e) Carries away or destroys, attempts to carry away or destroy, or knowingly allows another to carry away or destroy, any poll list, ballot box, or ballots lawfully polled, or who willfully detains, mutilates, or destroys any election returns.

SEC. 18. Section 29104 is added to the Elections Code, to read:

29104. Every person is guilty of a misdemeanor who, in a statewide, special, or local election, does any one of the following:

(a) Removes or defaces any posted copy of the results of votes cast within the period of 48 hours from the official time fixed for the closing of the polls; or

(b) Delays delivery of or changes the copy of the result of votes cast which is to be delivered to the city or county clerk.

SEC. 19. Section 29105 is added to the Elections Code, to read:

29105. Any person acting on any counting board who refuses to obey any lawful order of the clerk or his deputy is guilty of a misdemeanor, unless he is by his refusal guilty of a higher crime under the laws of this state.

SEC. 20. Section 29106 is added to the Elections Code, to read:

29106. Each counting board and its members are subject to the liabilities and penalties to which precinct boards or their members are subject where the votes and returns are counted at the precincts where they were polled.

SEC. 21. Section 29183 is added to the Elections Code, to read:

29183. No person shall make, use, keep, or furnish to others, any paper or punchcards watermarked or overprinted in imitation of ballot paper or punchcards.

SEC. 22. Chapter 4 (commencing with Section 29500) is added to Division 15 of the Elections Code, to read:

CHAPTER 4. OBLIGATIONS OF PRECINCT BOARD MEMBERS

29500. Any voter who has filed an application for the position of, and been appointed as a precinct board member and who, without being excused by the county clerk, fails to act as such, is guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars ($100).

SEC. 23. Division 16 (commencing with Section 30000) of the Elecions Code is repealed.

SEC. 24. Division 16 (commencing with Section 30000) is added to the Elections Code, to read:

DIVISION 16. LEGISLATIVE, CONGRESSIONAL AND EQUALIZATION DISTRICTS

CHAPTER 1. GENERAL

30000. It is the intent of the Legislature in the enactment of Chapters 2, 3 and 4 of this division to codify the reapportionment plan adopted by the California Supreme Court in the decision of Legislature v. Reinecke (10 Cal. 3d 396).

30001. For purposes of this division references to "CT" or "CTs" shall mean "census tract" or "census tracts", respectively, and references to "ED" or "EDs" shall mean "enumeration district" or "enumeration districts", respectively, as those demographic units are established by the United States Bureau of the Census for the 1970 census as described by maps and publications of the bureau.

CHAPTER 2. ASSEMBLY DISTRICTS

30010. Assembly District 1: Assembly District 1 shall consist of the following whole counties:

Glenn
Lassen
Modoc
Plumas
Shasta
Siskiyou
Tehama
Trinity

together with the part of Butte County contained within the following whole enumeration districts:

EDs 12 through 14
EDs 19 through 65
ED 89
EDs 101 through 104
EDs 111 through 113.

Assembly District 2: Assembly District 2 shall consist of the following whole counties:

Del Norte
Humboldt
Lake
Mendocino

together with the part of Sonoma County contained within the following whole and partial census tracts:

Whole Census Tracts:
CTs 1532 through 1543
Partial Census Tracts:
CT 1527—The part contained in Enumeration District 74
CT 1529—The part contained in Enumeration Districts 88 and 89
CT 1530—The part contained in Enumeration Districts 92 and 93
CT 1531—The part outside the city limits of the City of Santa Rosa as they existed on January 1, 1970.

Assembly District 3: Assembly District 3 shall consist of the following whole counties:

Colusa
Nevada
Placer
Sierra
Sutter
Yuba

together with the part of Butte County not included within Assembly District 1.

Assembly District 4: Assembly District 4 shall consist of the whole County of Yolo together with the part of the County of Solano contained within the following whole census tracts:

Whole Census Tracts:
CTs 2520 through 2535

together with the part of the County of Sacramento contained within the following whole and partial census tracts:

Whole Census Tracts:
CTs 5 through 12
CTs 20 through 24
CT 33
CT 34
CTs 39 and 40
CT 98
Partial Census Tracts:
CT 13—The part west of 24th Street
CT 14—The part west of 24th Street
CT 53—The part west of the Western Pacific Railroad.

Assembly District 5: Assembly District 5 shall consist of the part of Sacramento County contained within the following whole census tracts:

Whole Census Tracts:
CT 55.02
CT 59.01
CTs 60 through 76

CTs 78 through 82.05

Assembly District 6: Assembly District 6 shall consist of the part of Sacramento County contained within the following whole and partial census tracts:

Whole Census Tracts:
CTs 1 through 4
CTs 15 through 19
CTs 25 through 31.02
CT 32.02
CTs 35.01 through 38
CT 41
CTs 44.01 through 47
CT 52
CTs 54 and 55.01
CTs 56.01 through 58.02
CT 59.02
CT 77
CTs 88 through 91
Partial Census Tracts:
CT 13—The part not in Assembly District 4
CT 14—The part not in Assembly District 4
CT 53—The part not in Assembly District 4.

Assembly District 7: Assembly District 7 shall consist of the following whole counties:

Alpine
Amador
Calaveras
El Dorado
Mono
Tuolumne

together with the part of the County of Sacramento contained in the following whole census tracts:

Whole Census Tracts:
CT 32.01
CTs 42 and 43
CTs 48 through 51
CTs 83 through 87
CTs 92 through 97

together with the part of the County of San Joaquin contained in the following whole census tracts:

CTs 32.01 through 35
CTs 40 through 47.

Assembly District 8: Assembly District 8 shall consist of the whole County of Napa, the part of the County of Solano not contained in Assembly District 4, together with the part of the County of Sonoma contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 1501 through 1505
CTs 1514 through 1526

CT 1528
Partial Census Tracts:
CT 1527—The part not contained in Assembly District 2
CT 1529—The part not contained in Assembly District 2
CT 1530—The part not contained in Assembly District 2
CT 1531—The part not contained in Assembly District 2.

Assembly District 9: Assembly District 9 shall consist of the whole County of Marin, together with the part of the County of Sonoma not contained in Assembly Districts 2 or 8.

Assembly District 10: Assembly District 10 shall consist of the part of the County of Contra Costa contained in the following whole census tracts:

Whole Census Tracts:
CTs 3010 through 3150.99
CTs 3280 through 3400
CTs 3420 through 3462
CT 3511
CTs 3551 through 3553

Assembly District 11: Assembly District 11 shall consist of the part of the County of Contra Costa contained in the following whole census tracts:

Whole Census Tracts:
CTs 3160 through 3270
CTs 3560 through 3920.

Assembly District 12: Assembly District 12 shall consist of the part of the County of Contra Costa not contained in Assembly Districts 10 or 11, together with the part of the County of Alameda contained within the following whole or partial census tracts:

Whole Census Tracts:
CTs 4001 through 4004
CTs 4011 and 4012
CTs 4038 through 4051
CTs 4067 through 4069
CTs 4078 through 4081
CTs 4201 through 4218
CTs 4223 through 4229
CTs 4236 through 4238
CTs 4261 and 4262
Partial Census Tracts:
CT 4239—The part east of Deakin Street
CT 4301—The part contained in Enumeration Districts 99, 100 and 101B.

Assembly District 13: Assembly District 13 shall consist of the part of the County of Alameda contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 4005 through 4010
CTs 4013 through 4037
CTs 4052 through 4064

CTs 4219 through 4222
CTs 4230 through 4235
CTs 4240 and 4251
CTs 4271 through 4286
Partial Census Tract:
CT 4239—The part not included in Assembly District 12.

Assembly District 14: Assembly District 14 shall consist of the part of the County of Alameda contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 4065 and 4066
CTs 4070 through 4077
CTs 4082 through 4104
CTs 4302 through 4307
CT 4309
CTs 4321 through 4340
Partial Census Tract:
CT 4301—The part contained in Enumeration Districts 94, 98, 101A, and 102 through 105.

Assembly District 15: Assembly District 15 shall consist of the part of the County of Alameda contained in the following whole or partial census tracts:

Whole Census Tracts:
CT 4308
CTs 4310 through 4312
CTs 4351 through 4403
CTs 4501 through 4517
Partial Census Tract:
CT 4301—The part not contained in Assembly District 12 or Assembly District 14.

Assembly District 16: Assembly District 16 shall consist of the part of the City and County of San Francisco contained in the following whole census tracts:

Whole Census Tracts:
CTs 101 through 109
CTs 112 through 119
CT 121
CT 123
CT 125
CTs 176 through 215
CTs 226 through 234
CTs 251 through 254
CTs 606 through 610.

Assembly District 17: Assembly District 17 shall consist of the part of the City and County of San Francisco contained in the following whole census tracts:

Whole Census Tracts:
CTs 110 and 111
CT 120

CT 122
CT 124
CTs 126 through 171
CTs 301 and 302
CTs 401 through 479
CTs 601 through 603.

Assembly District 18: Assembly District 18 shall consist of the part of the City and County of San Francisco not contained within either Assembly District 16 or Assembly District 17, together with the part of the County of San Mateo contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 6002 through 6004
CTs 6008 and 6009
CT 6012
Partial Census Tract:
CT 6007—The part not in Assembly District 19.

Assembly District 19: Assembly District 19 shall consist of the part of the County of San Mateo contained in the following whole or partial census tracts:

Whole Census Tracts:
CT 6001
CTs 6005 and 6006
CTs 6010 and 6011
CTs 6013 through 6063
Partial Census Tracts:
CT 6007—The part south of Vista Grande Avenue and east of Niantic Avenue
CT 6064—The part north of Crystal Springs Road
CT 6065—The part west of Alameda de las Pulgas
CT 6135—The part contained in Enumeration District 7.

Assembly District 20: Assembly District 20 shall consist of the part of the County of San Mateo contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 6066 through 6116
CTs 6123 through 6134
CTs 6136 through 6138
Partial Census Tracts:
CT 6064—The part not contained in Assembly District 19
CT 6065—The part not contained in Assembly District 19
CT 6117—The part north of the Southern Pacific Railroad right-of-way.
CT 6135—The part not contained in Assembly District 19.

Assembly District 21: Assembly District 21 shall consist of the part of the County of San Mateo not contained in Assembly District 18, Assembly District 19 or Assembly District 20 together with the part of the County of Santa Clara contained in the following whole or partial census tracts:

Whole Census Tracts:
CT 5046.01
CTs 5047 through 5048.02
CT 5082.01
CTs 5083.02 through 5099.02
CTs 5106 through 5116
Partial Census Tracts:
CT 5046.02—The part contained within the city limits of Sunnyvale as they existed on January 1, 1970.
CT 5082.02—The part south of Inverness Way and west of Peacock Avenue.

Assembly District 22: Assembly District 22 shall consist of the part of the County of Santa Clara contained in the following whole or partial census tracts:
Whole Census Tracts:
CTs 5026 through 5027.02
CTs 5065.02 through 5068.02
CTs 5068.04 through 5081.01
CT 5083.01
CTs 5100.01 through 5105
CTs 5117.01 through 5118
Partial Census Tracts:
CT 5062.02—The part not contained in Assembly District 23
CT 5068.03—The part west of Harwood Road and south of Los Gatos-Almaden Road.

Assembly District 23: Assembly District 23 shall consist of the part of the County of Santa Clara contained in the following whole or partial census tracts:
Whole Census Tracts:
CTs 5001 through 5025
CT 5049.01
CTs 5051 through 5062.01
CTs 5063.01 through 5065.01
CT 5081.02
Partial Census Tracts:
CT 5050—The part located west of San Jose-Alviso Road and North First Street
CT 5062.02—The part east of Marilla Avenue and north of Doyle Road
CT 5082.02—The part not contained in Assembly District 21.

Assembly District 24: Assembly District 24 shall consist of the County of San Benito together with the part of the County of Santa Clara located within the following whole or partial census tracts:
Whole Census Tracts:
CTs 5028 through 5033.01
CTs 5119.01 through 5127
CTs 5033.03 through 5035.01
Partial Census Tracts:
CT 5033.02—The part located south of Quimby Road and east of White Road
CT 5068.03—The part not contained in Assembly District 22.

Assembly District 25: Assembly District 25 shall consist of the part of the County of Alameda not contained in Assembly District 12, Assembly District 13, Assembly District 14 or Assembly District 15, together with the part of the County of Santa Clara not contained in Assembly District 21, Assembly District 22, Assembly District 23 or Assembly District 24.

Assembly District 26: Assembly District 26 shall consist of the part of the County of San Joaquin not contained in Assembly District 7, together with the part of the County of Stanislaus contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 1 through 3
CTs 28 and 29
Partial Census Tracts:
CT 4—The part outside the city limits of the City of Modesto as they existed on January 1, 1970
CT 5—The part outside the city limits of the City of Modesto as they existed on January 1, 1970
CT 36.01—The part contained in Enumeration Districts 226 and 252.

Assembly District 27: Assembly District 27 shall consist of the part of the County of Stanislaus not contained in Assembly District 26 together with the part of the County of Merced contained in the following whole census tracts and Enumeration Districts:

Whole Census Tracts:
CTs 9501 through 9506
Whole Enumeration Districts:
EDs 1 and 2
EDs 37 through 44
ED 47
ED 50
EDs 52 through 112.

Assembly District 28: Assembly District 28 shall consist of the County of Santa Cruz, together with the part of the County of Monterey contained within the following whole and partial census tracts:

Whole Census Tracts:
CTs 101 through 104
CTs 116 through 140
CTs 142 and 143
Partial Census Tracts:
CT 141—The part located within the city limits of the City of Seaside, together with the part located west of State Highway 1 as it was aligned on August 30, 1973.

Assembly District 29: Assembly District 29 shall consist of the County of San Luis Obispo, together with the part of the County of Monterey not contained within Assembly District 28, together with the part of the County of Santa Barbara contained within the following whole census tracts:

Whole Census Tracts:

CTs 21 through 22.02.
CT 23.02

Assembly District 30: Assembly District 30 shall consist of the County of Madera and the County of Mariposa, together with the part of the County of Merced not contained in Assembly District 27, together with the part of the County of Fresno contained in the following whole census tracts:

Whole Census Tracts:
CTs 1 through 11
CT 13
CTs 18 through 28
CTs 33 through 42
CTs 47.01 through 48
CTs 75 through 84.02

Assembly District 31: Assembly District 31 shall consist of the part of the County of Fresno not included in Assembly District 30, together with the part of the County of Tulare contained in the following whole census tracts:

Whole Census Tracts:
CTs 1 through 7.

Assembly District 32: Assembly District 32 shall consist of the County of Kings, together with the part of the County of Tulare not contained within Assembly District 31 and the part of the County of Kern contained within the following whole and partial census tracts:

Whole Census Tracts:
CT 39
CTs 45 through 50
Partial Census Tracts:
CT 33.01—The part contained in Enumeration Districts 470 and 471.

Assembly District 33: Assembly District 33 shall consist of the part of the County of Kern contained within the following whole or partial census tracts:

Whole Census Tracts:
CTs 1.01 through 32.02
CT 33.02 through 38
CTs 40 through 44
CT 51.02
CT 60
CTs 62 through 64
Partial Census Tract:
CT 33.01—The part not contained in Assembly District 32.

Assembly District 34: Assembly District 34 shall consist of the County of Inyo, together with the part of the County of Kern not contained within Assembly District 32 or Assembly District 33, and the part of the County of San Bernardino contained within the following whole census tracts:

Whole Census Tracts:
CTs 89.01 through 91.02
CTs 93 through 100

CT 103
CTs 105 through 107
together with the part of the County of Los Angeles contained in the following whole census tracts:
Whole Census Tracts:
CTs 9001 through 9110.

Assembly District 35: Assembly District 35 shall consist of the part of the County of Santa Barbara not included in Assembly District 29.

Assembly District 36: Assembly District 36 shall consist of the part of the County of Ventura included within the following whole census tracts:
Whole Census Tracts:
CT 1
CTs 4 through 57.

Assembly District 37: Assembly District 37 shall consist of the part of the County of Ventura included within the following whole census tracts:
Whole Census Tracts:
CTs 2 and 3
CTs 75 through 85
together with the part of the County of Los Angeles included within the following whole and partial census tracts:
Whole Census Tracts:
CTs 1061.01 through 1082
CTs 1112.01 through 1113.02
CTs 1131 through 1133.03
CTs 9200.01 through 9203.03
Partial Census Tracts:
CT 1134.02—That part north of Parthenia Street or west of Mason Avenue.

Assembly District 38: Assembly District 38 shall consist of that part of the County of Ventura not included in Assembly District 36 or Assembly District 37 together with that part of the County of Los Angeles contained in the following whole or partial census tracts:
Whole Census Tracts:
CT 1134.01
CTs 1316 and 1317
CTs 1325 and 1326
CTs 1331.02 through 1375.02
CTs 2625 through 2627.02
CTs 8001 through 8005
Partial Census Tract:
CT 1134.02—That part not included in Assembly District 37.

Assembly District 39: Assembly District 39 shall consist of that part of the County of Los Angeles included in the following whole census tracts:
Whole Census Tracts:
CTs 1041.01 through 1048
CTs 1091 through 1098.02
CTs 1111.01 and 1111.02

CTs 1114.01 and 1114.02
CTs 1151.01 through 1154.02
CTs 1171 through 1175
CTs 1191 through 1201.02
CTs 1211 through 1214
CTs 1216 through 1221
CTs 1223 and 1224
CT 1231.01
CTs 3201 through 3203.

Assembly District 40: Assembly District 40 shall consist of that part of the County of Los Angeles contained in the following whole census tracts:

Whole Census Tracts:
CT 1176
CTs 1202 through 1204
CT 1215
CTs 1231.02 through 1248
CTs 1271.01 through 1288
CTs 1311 through 1315
CTs 1318 through 1324
CTs 1327 through 1331.01
CTs 1391 and 1392.

Assembly District 41: Assembly District 41 shall consist of that part of the County of Los Angeles contained in the following whole census tracts:

Whole Census Tracts:
CTs 1011 through 1034
CT 1222
CTs 1881 and 1882.01
CT 3007
CTs 3010 through 3118
CT 9302.

Assembly District 42: Assembly District 42 shall consist of that part of the County of Los Angeles contained in the following whole census tracts:

Whole Census Tracts:
CTs 3001 through 3006
CTs 3008 and 3009
CTs 4600 through 4630
CT 4632
CTs 4634 through 4640
CTs 4805 through 4807.02
CT 9301.

Assembly District 43: Assembly District 43 shall consist of that part of the County of Los Angeles contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 1249.01 through 1252
CT 1289
CT 1375.03

CT 1375.04
CT 1376
CTs 1393 through 1417
CTs 1433 through 1435
CT 1436.02
CTs 1438.02 through 1439.02
CT 2164
CTs 2611.01 through 2624
CT 2628
CTs 2641.01 through 2643.01
CTs 2651 through 2657
CTs 7006 through 7011
Partial Census Tract:
CT 2674.01—That part north of Ohio Avenue and east of Barrington Avenue.

Assembly District 44: Assembly District 44 shall consist of that part of the County of Los Angeles contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 2165 and 2166
CT 2643.02
CTs 2671 through 2673
CTs 2674.02 through 2717.02
CTs 2731 through 2742.99
CTs 7012.01 through 7023
Partial Census Tracts:
CT 2674.01—That part not included in Assembly District 43.

Assembly District 45: Assembly District 45 shall consist of that part of the County of Los Angeles contained in the following whole census tracts:

Whole Census Tracts:
CTs 1253 through 1256
CTs 1431 and 1432
CT 1436.01
CTs 1437 and 1438.01
CTs 1893 through 1903.02
CTs 1905 through 1909
CTs 1917 through 1924
CTs 1941 through 1945
CTs 2115 through 2117
CTs 2141 through 2163
CTs 2167 through 2169
CT 3200
CTs 7001 through 7005.

Assembly District 46: Assembly District 46 shall consist of that part of the County of Los Angeles contained in the following whole census tracts:

Whole Census Tracts:
CT 1882.02
CTs 1891 and 1892

CT 1904
CTs 1911 through 1916.02
CTs 1925 through 1927
CTs 1951 through 1959
CTs 2084 through 2089
CTs 2094 and 2095
CT 2098
CTs 2111 through 2114
CTs 2118 through 2134
CT 2181
CT 2188
CTs 2211 through 2214.01
CT 2215.01
CT 2216.01
CT 2217.01.

Assembly District 47: Assembly District 47 shall consist of that part of the County of Los Angeles contained in the following whole or partial census tracts:

Whole Census Tracts:
CT 2214.02
CT 2215.02
CT 2216.02
CTs 2217.02 through 2227
CTs 2242 through 2247
CTs 2264 through 2324
CT 2328
CTs 5325 through 5327
CTs 5331 and 5332
CTs 5335 and 5336
CTs 5338.01 and 5338.02
CTs 5343 through 5345.

Partial Census Tract:
CT 5324—The part west of Downey Road.

Assembly District 48: Assembly District 48 shall consist of that part of the County of Los Angeles contained in the following whole census tracts:

Whole Census Tracts:
CT 2377
CT 2383
CTs 2391 through 2431
CTs 5328 through 5330
CTs 5347 through 5362

Assembly District 49: Assembly District 49 shall consist of that part of the County of Los Angeles contained in the following whole census tracts:

Whole Census Tracts:
CTs 2171 and 2172
CTs 2182 through 2187
CTs 2189 through 2202
CTs 2341 through 2351

CTs 2361 through 2364
CTs 2718 through 2723.02
CTs 2751.01 through 2756
CTs 7024 through 7032.

Assembly District 50: Assembly District 50 shall consist of that part of the County of Los Angeles contained in the following whole census tracts:

Whole Census Tracts:
CTs 2325 through 2327
CTs 2352.01 and 2352.02
CTs 2371 through 2376
CTs 2378 through 2382
CTs 2384 through 2386
CTs 2761 through 2781
CTs 6001 through 6014.02
CTs 6019 and 6020.01.

Assembly District 51: Assembly District 51 shall consist of that part of the County of Los Angeles contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 6200 through 6214
CTs 6505 through 6507.02
CTs 6512.01 through 6514
CTs 6702.01 through 6706.99
Partial Census Tract:
CT 6707.02—All except that part south of Palos Verdes Drive and south of Miraleste Drive.

Assembly District 52: Assembly District 52 shall consist of that part of the County of Los Angeles contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 2931 through 2933
CTs 2942 through 2976.99
CT 5435.03
CTs 5436.02 and 5436.03
CTs 5990 and 5991
CT 6099
CTs 6500.01 through 6504
CT 6508 through 6511
CTs 6700.01 through 6701
CT 6707.01
Partial Census Tracts:
CT 2941—That part south of the westerly extension of Hill Street
CT 6707.02—That part not included in Assembly District 51.

Assembly District 53: Assembly District 53 shall consist of that part of the County of Los Angeles contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 2911 through 2921
CTs 5409.01 through 5410.02

CT 5433.02
CTs 5434 through 5435.02
CT 5436.01
CT 5437.01
CT 5438
CTs 6015 through 6018
CTs 6020.02 through 6041
Partial Census Tracts:
CTs 5430 and 5431—That part not contained in the Compton city limits as they existed on April 1, 1970.

Assembly District 54: Assembly District 54 shall consist of that part of the County of Los Angeles contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 5400 through 5408
CTs 5411 through 5429
CT 5432
CT 5531 through 5533
CTs 5535 through 5544.02
Partial Census Tracts:
CTs 5430 and 5431—That part not contained in Assembly District 53.

Assembly District 55: Assembly District 55 shall consist of that part of the County of Los Angeles contained in the following whole census tracts:
Whole Census Tracts:
CTs 1811 through 1873
CT 1883
CTs 1971 through 1975
CTs 1991 through 2033
CTs 2036 through 2038
CTs 5306 through 5309.

Assembly District 56: Assembly District 56 shall consist of that part of the County of Los Angeles contained within the following whole or partial census tracts:
Whole Census Tracts:
CTs 1976 and 1977
CTs 2034 and 2035
CTs 2039 through 2083
CTs 2091 through 2093
CTs 2096 and 2097
CT 2241
CTs 2261 through 2263
CTs 5303 through 5305
CTs 5310 through 5319
CTs 5323.01 and 5323.02
CTs 5333 and 5334
CT 5337
CTs 5339 through 5342
Partial Census Tracts:

CT 5324—That part not contained in Assembly District 47.

Assembly District 57: Assembly District 57 shall consist of that part of the County of Los Angeles contained in the following whole or partial census tracts:

Whole Census Tracts:
CT 5433.01
CT 5433.03
CT 5436.04
CTs 5437.02 and 5437.03
CTs 5439 and 5440
CTs 5701 through 5706
CTs 5715.01 through 5733
CTs 5752 through 5766

Partial Census Tract:
CT 2941—That part not contained in Assembly District 52
CT 5751—That part west of Junipero Avenue.

Assembly District 58: Assembly District 58 shall consist of that part of the County of Los Angeles contained within the following whole or partial census tracts:

Whole Census Tracts:
CTs 5550 through 5700.03
CTs 5707.01 through 5714
CTs 5734 through 5750.02
CTs 5767 through 5776.03

Partial Census Tracts:
CT 5751—That part not contained in Assembly District 57.

Assembly District 59: Assembly District 59 shall consist of that part of the County of Los Angeles contained within the following whole or partial census tracts:

Whole Census Tracts:
CT 4335
CTs 4337 and 4338
CTs 4803 and 4804
CTs 4808.01 through 4810
CTs 4815 through 4822
CTs 4825.02 through 4828
CTs 5004.01 through 5010
CTs 5022 through 5026.02
CTs 5300.01 through 5302
CTs 5320 through 5322

Partial Census Tracts:
CT 4824.02—That part south of the Pomona Freeway.

Assembly District 60: Assembly District 60 shall consist of that part of the County of Los Angeles contained within the following whole and partial census tracts:

Whole Census Tracts:
CTs 4047 through 4052
CTs 4069 through 4073
CTs 4075 through 4079
CTs 4082.02 through 4083.03

CT 4315
CTs 4322 through 4334
CTs 4336.01 and 4336.02
CTs 4339 and 4340
CT 4813
CTs 4823.02 and 4824.01
CT 4825.01
Partial Census Tracts:
CT 4824.02—That part not contained in Assembly District 59.

Assembly District 61: Assembly District 61 shall consist of that part of the County of Los Angeles contained within the following whole or partial census tracts:

Whole Census Tracts:
CT 4006
CT 4041
CTs 4043 through 4046
CTs 4300.01 through 4314
CTs 4316 through 4321.02
CTs 4631.01 and 4631.02
CT 4633
CTs 4641 through 4802
CTs 4811 through 4812.02
CT 4814
CT 4823.01
Partial Census Tracts:
CT 4040—That part not contained in Assembly District 62
CT 4042—All except that part contained in Assembly District 62.

Assembly District 62: Assembly District 62 shall consist of that part of the County of Los Angeles contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 4002 through 4005
CTs 4008 through 4016
CTs 4018 through 4020
CTs 4036 through 4039.02
CTs 4053 through 4068
CT 4074
CT 4080
CT 4081.03
CT 9300
Partial Census Tracts:
CT 4017—That part north of Foothill Boulevard
CT 4040—That part within the City of Azusa city limits as they existed on April 1, 1970
CT 4042—That part east of Calera Avenue together with that part south of Mauna Loa Avenue and east of Citrus Avenue.

Assembly District 63: Assembly District 63 shall consist of that part of the County of Los Angeles contained in the following whole or partial census tracts:

Whole Census Tracts:

CTs 5027 through 5030
CT 5031.02
CT 5032.02
CT 5041.02
CTs 5500 through 5530
CT 5534
CTs 5545.01 through 5549
Partial Census Tract:
CT 5031.01—That part west of Burgess Avenue.

Assembly District 64: Assembly District 64 shall consist of that part of the County of Los Angeles contained in the following whole or partial census tracts:

Whole Census Tracts:
CT 4024.04
CTs 4033.01 through 4035
CTs 4081.01 and 4081.02
CT 4082.01
CTs 4084.01 through 4087.02
CTs 5001 through 5003
CTs 5012 through 5021
CT 5032.01
CTs 5033.01 through 5041.01
Partial Census Tract:
CT 5031.01—That part not contained in Assembly District 63.

Assembly District 65: Assembly District 65 shall consist of that part of the County of Los Angeles contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 4021.01 through 4024.03
CTs 4025.01 through 4032
CT 4088
Partial Census Tract:
CT 4017—That part not contained in Assembly District 62

together with that part of the County of San Bernardino contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 1 through 8.01
CTs 8.03 through 19
Partial Census Tract:
CT 8.02—That part not in Assembly District 66.

Assembly District 66: Assembly District 66 shall consist of that part of the County of San Bernardino contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 20 through 44
CTs 46 through 50
CTs 52 through 60
CTs 62 through 71
CT 92
Partial Census Tract:

CT 8.02—That part which is north of Avalon Court and east of Jasper Street.

Assembly District 67: Assembly District 67 shall consist of that part of the County of San Bernardino not contained in Assembly Districts 34, 65 or 66, together with that part of the County of Riverside contained in the following whole or partial census tracts:

Whole Census Tracts:
CT 424
CTs 425.02 through 429
CTs 435 and 436
CTs 438.01 through 443
Partial Census Tract:
CT 445—The part contained in Enumeration District 32.

Assembly District 68: Assembly District 68 shall consist of that part of the County of Riverside contained in the following whole census tracts:

Whole Census Tracts:
CTs 301 through 423
CT 425.01.

Assembly District 69: Assembly District 69 shall consist of that portion of the County of Orange contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 11.01 through 117.01
CTs 865.01 through 867.02
CTs 868.02 and 868.03
CTs 869.03 through 874.01
CTs 876.01 through 877.02
CT 1106.02
Partial Census Tract:
CT 874.02—That part north of Vermont Avenue and west of Harbor Boulevard.

Assembly District 70: Assembly District 70 shall consist of that part of the County of Orange contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 117.02 through 219.02
CTs 755.01 through 864.03
CTs 874.03 through 875.02
Partial Census Tract:
CT 874.02—That part not contained in Assembly District 69.

Assembly District 71: Assembly District 71 shall consist of that part of the County of Orange contained in the following whole or partial census tracts:

Whole Census Tracts:
CT 868.01
CTs 869.01 and 869.02
CTs 878.01 through 880.01
CT 881.01
CT 888

CTs 889.04 and 889.05
CTs 992.04 and 992.05
CT 996.01
CTs 997.01 through 1100.05
CTs 1101.01 through 1106.01
CT 1106.03
Partial Census Tracts:
CTs 881.02 and 881.03—That part west of Beach Boulevard
CT 1100.09—That part not contained in Assembly District 73.

Assembly District 72: Assembly District 72 shall consist of that part of the County of Orange contained within the following whole or partial census tracts:

Whole Census Tracts:
CTs 740.01 through 754.03
CT 880.02
CTs 882.01 through 887.02
CTs 889.01 through 889.03
CTs 890.01 through 992.03
Partial Census Tracts:
CTs 881.02 and 881.03—That part not contained in Assembly District 71.

Assembly District 73: Assembly District 73 shall consist of that part of the County of Orange contained within the following whole or partial census tracts:

Whole Census Tracts:
CT 632.01
CTs 636.01 and 636.02
CTs 637 through 638.04
CTs 639.01 through 639.06
CTs 992.06 through 995.99
CTs 996.02 through 996.05
CTs 1100.06 through 1100.08
Partial Census Tracts:
CT 632.02—That part northeast of Santa Ana Avenue
CT 1100.09—That part within the Seal Beach city limits as they existed on January 1, 1970.

Assembly District 74: Assembly District 74 shall consist of that part of the County of Orange contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 320.01 through 631.03
CTs 633 through 635
CT 636.03
Partial Census Tract:
CT 632.02—That part northwest of Santa Ana Avenue, as well as that part of the County of San Diego contained within the following whole census tracts:
Whole Census Tracts:
CTs 181 through 185.02
CTs 185.04 through 187

CT 193.

Assembly District 75: Assembly District 75 shall consist of that part of the County of Riverside not contained in Assembly Districts 67 or 68, the entire County of Imperial, as well as that part of the County of San Diego contained in the following whole census tracts:

Whole Census Tracts:
CT 155
CT 168.02
CTs 188 through 191.02
CTs 209.01 through 212.02.

Assembly District 76: Assembly District 76 shall consist of that part of the County of San Diego contained in the following whole or partial census tracts:

Whole Census Tracts:
CTs 80.01 through 83.09
CTs 166.04 through 168.01
CTs 169 through 180
CT 185.03
CTs 192.01 and 192.02
CTs 194 through 208
Partial Census Tract:
CT 95—That part contained in Enumeration District 183.

Assembly District 77: Assembly District 77 shall consist of that part of the County of San Diego contained within the following whole or partial census tracts:

Whole Census Tracts:
CTs 85.01 through 85.11
CTs 91.01 and 91.02
CT 94
CTs 96.01 through 98.03
CTs 145 through 154.02
CTs 156 through 166.03
Partial Census Tract:
CT 95—That part not contained in Assembly District 76.

Assembly District 78: Assembly District 78 shall consist of that part of the County of San Diego contained within the following whole or partial census tracts:

Whole Census Tracts:
CT 1
CTs 4 through 6
CTs 9 through 13
CTs 16 through 23
CTs 27.01 and 27.02
CTs 28.01 through 29.02
CTs 64 through 79.02
CTs 86 through 90
CTs 91.03 through 93.02
CT 99.01
Partial Census Tract:
CT 2—That part not contained in Assembly District 79.

Assembly District 79: Assembly District 79 shall consist of that part of the County of San Diego contained in the following whole or partial census tracts:

Whole Census Tracts:
CT 3
CTs 7 and 8
CTs 14 and 15
CTs 24 through 26
CTs 27.03 through 27.06
CTs 29.03 through 31.03
CTs 33 through 63
CT 99.02
CTs 106.01 through 113.99
CT 140.01
CTs 141 through 144

Partial Census Tracts:
CT 2—That part south of University Avenue and east of Goldfinch Street and Reynard Way.

Assembly District 80: Assembly District 80 shall consist of that part of the County of San Diego not contained in Assembly Districts 74, 75, 76, 77, 78 or 79.

CHAPTER 3. SENATE DISTRICTS

30020. Senate districts shall be formed by joining the Assembly districts defined herein according to the following table:

Senate District	Assembly Districts	Senate District	Assembly Districts
1	1 and 3	21	41 and 42
2	2 and 9	22	43 and 44
3	5 and 6	23	45 and 46
4	4 and 8	24	55 and 56
5	16 and 17	25	61 and 62
6	18 and 19	26	59 and 60
7	10 and 11	27	51 and 52
8	14 and 15	28	53 and 54
9	12 and 13	29	47 and 48
10	20 and 21	30	49 and 50
11	24 and 25	31	57 and 58
12	22 and 23	32	65 and 66
13	7 and 26	33	63 and 64
14	27 and 30	34	67 and 68
15	31 and 32	35	69 and 70
16	33 and 34	36	73 and 74
17	28 and 29	37	71 and 72
18	35 and 36	38	75 and 76
19	37 and 38	39	77 and 78
20	39 and 40	40	79 and 80

CHAPTER 4. CONGRESSIONAL DISTRICTS

30030. Congressional District 1: Congressional District 1 shall consist of the following whole counties:

Shasta
Siskiyou
Trinity
Modoc
Lassen
Plumas
Glenn
Tehama
Butte
Sierra
Nevada
Placer
Yuba

together with the part of the County of Sacramento contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 82.01 and 82.02
CT 83
Partial Census Tracts:
CT 82.03—The part north of Elm Avenue
CT 85—The part of Sacramento County consisting of the American River downstream from Folsom Dam.

Congressional District 2: Congressional District 2 shall consist of the following whole counties:

Del Norte
Humboldt
Napa
Lake
Mendocino

together with the part of the County of Sonoma not included in Congressional District 5.

Congressional District 3: Congressional District 3 shall consist of that part of the County of Sacramento not included in Congressional District 1, Congressional District 4, or Congressional District 14, together with the following partial census tract:

CT 75—The part bounded on the west and south as follows: Starting at Spruce Avenue and Auburn Boulevard, southwesterly along Auburn to Madison, along Madison to Walnut, along Walnut to Myrtle, along Myrtle Avenue to Hemlock Street, along Hemlock to Pimlico, along Pimlico to the border of the census tract.

Congressional District 4: Congressional District 4 shall consist of the following whole counties:

Colusa
Sutter
Yolo

Solano
together with the part of the County of Sacramento contained in the following whole and partial census tracts:
Whole Census Tracts:
CT 55.02
CT 59.01
CTs 60 through 74.05
CT 98
Partial Census Tracts:
CT 81.03—The part west of Interstate 80
CT 75—The part not included in Congressional District 3.

Congressional District 5: Congressional District 5 shall consist of the entire County of Marin; together with the part of the County of Sonoma included in the following whole and partial census tracts:
Whole Census Tracts:
CT 1511
Partial Census Tracts:
CT 1508—The part in Enumeration District 208
CT 1507—The part in Enumeration District 207;
together with the part of the City and County of San Francisco included in the following whole and partial census tracts:
Whole Census Tracts:
CTs 110 and 111
CT 120
CT 122
CT 124
CTs 126 through 135
CTs 151 through 171
CTs 301 and 302
CTs 401 and 402
CTs 426 through 428
CTs 451 and 452
CTs 476 through 479
CTs 601 through 603
Partial Census Tracts:
CT 326—The part north of Kirkham Street and east of 26th Avenue.

Congressional District 6: Congressional District 6 shall consist of that part of the City and County of San Francisco not included in Congressional District 5.

Congressional District 7: Congressional District 7 shall consist of the part of the County of Contra Costa contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 3010 through 3400
CTs 3420 through 3440
CTs 3452 through 3462
CT 3511
CTs 3551 through 3830
Partial Census Tracts:

CT 3451—All of CT 3451 except the census division of San Ramon Village.

Congressional District 8: Congressional District 8 shall consist of that part of the County of Contra Costa not contained in Congressional District 7 or Congressional District 9; together with the part of Alameda County contained in the following whole census tracts:

CTs 4001 through 4065
CTs 4067 through 4069
CTs 4078 through 4081
CTs 4201 through 4206
CTs 4211 through 4240
CTs 4251 through 4262.

Congressional District 9: Congressional District 9 shall consist of the part of the County of Alameda contained in the following whole and partial census tracts:

Whole Census Tracts:
CT 4066
CTs 4070 through 4077
CTs 4082 through 4104
CTs 4271 through 4286
CTs 4301 through 4312
CTs 4321 through 4340
CTs 4351 through 4353
CTs 4355 through 4362
CTs 4501 through 4507
CTs 4511 through 4517
Partial Census Tracts:
CT 4364—The part not included within the boundaries of the City of Hayward as they existed on January 1, 1970;

together with the part of the County of Contra Costa contained in the following partial census tract:

Partial Census Tract:
CT 3451—The part included in the census division of San Ramon Village.

Congressional District 10: Congressional District 10 shall consist of the part of the County of Santa Clara contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 5001 through 5019
CTs 5021.02 through 5025
CTs 5035 through 5045.02, all except CT 5035.01
CT 5049.02
CT 5051
Partial Census Tracts:
CT 5020—The part east of Bascom Avenue
CT 5033.02—The part located north of Quimby Road together with the part west of White Road
CT 5046.02—The part not contained in Congressional District 12
CT 5050—The part not included in Congressional District 12

CT 5052.03—The part included within the boundaries of the City of San Jose as they existed on January 1, 1970;

and the part of the County of Alameda not included in Congressional District 8 or Congressional District 9.

Congressional District 11: Congressional District 11 shall consist of the part of San Mateo County contained in the following whole and partial census tracts:

Whole Census Tracts:

CTs 6001 through 6096
CTs 6098 and 6099
CTs 6100 through 6110
CTs 6135 through 6137

Partial Census Tracts:

CT 6113—The part northeast of the southeasterly extension of Massachusetts Avenue included within the boundaries of Redwood City as they existed on January 1, 1970

CT 6117—The part north of the Southern Pacific Railroad right-of-way.

Congressional District 12: Congressional District 12 shall consist of the part of the County of San Mateo not included in Congressional District 11; together with the part of the County of Santa Clara contained in the following whole and partial census tracts:

Whole Census Tracts:

CT 5046.01
CTs 5047 through 5049.01
CTs 5052.01 through 5062.01
CTs 5081.02 through 5117.03

Partial Census Tracts:

CT 5046.02—The part within the city limits of the City of Sunnyvale as they existed on January 1, 1970.

CT 5050—The part west of San Jose-Alviso Road and North First Street.

CT 5052.03—The part within the boundaries of the City of Santa Clara as they existed on January 1, 1970.

CT 5063.01—The part west of South Cypress Avenue.

Congressional District 13: Congressional District 13 shall consist of that part of the County of Santa Clara not included in Congressional District 10 or Congressional District 12.

Congressional District 14: Congressional District 14 shall consist of the following whole counties:

San Joaquin
El Dorado
Amador
Alpine
Calaveras
Mono
Tuolumne

together with the part of the County of Sacramento contained in the following whole and partial census tracts:

Whole Census Tracts:

CTs 94 and 95
CT 97
Partial Census Tracts:
CT 96—The part not included within the boundary of the City of Sacramento as it existed on January 1, 1970;

together with the part of the County of Stanislaus contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 1 through 3
CTs 6 and 7
CT 9.03
CT 15
CT 20
CTs 28 and 29
CTs 32 through 35
Partial Census Tracts:
CT 4—The part outside the city limits of the City of Modesto as they existed on January 1, 1970
CT 5—The part outside the city limits of the City of Modesto as they existed on January 1, 1970
CT 30—The part contained in Enumeration Districts 195 and 196.

Congressional District 15: Congressional District 15 shall consist of the following whole counties:

Merced
Mariposa
Madera

together with the part of the County of Stanislaus not included in Congressional District 14; and the part of the County of Fresno contained in the following whole census tracts:

CTs 1 through 3
CTs 5 through 11
CTs 18 through 28
CTs 33 through 42
CTs 47.01 through 48
CTs 75 through 84.02

Congressional District 16: Congressional District 16 shall consist of the following whole counties:

Santa Cruz
Monterey
San Benito

together with the part of the County of San Luis Obispo contained in the following whole census tracts and whole enumeration districts:

Whole Census Tracts:
CTs 95.05 through 95.18
Whole Enumeration Districts:
EDs 12 through 86

Congressional District 17: Congressional District 17 shall consist of the entire County of Kings, together with the part of the County of Fresno not included in Congressional District 15; and the part of the County of Tulare contained in the following whole census tracts:

CTs 1 through 26
CTs 28 through 31
CT 33
CTs 34 through 41

Congressional District 18: Congressional District 18 shall consist of the following whole counties:

Inyo
Kern

together with the part of the County of Tulare not included in Congressional District 17; and the part of the County of Los Angeles included in the following whole and partial census tracts:

Whole Census Tracts:
CTs 9001 through 9110
Partial Census Tracts:
CT 9200.02—The part not contained in Congressional District 20.

Congressional District 19: Congressional District 19 shall consist of the whole County of Santa Barbara, together with the part of the County of San Luis Obispo not included in Congressional District 16; and the part of the County of Ventura contained in the following whole and partial census tracts:

Whole Census Tracts:
CT 1
CTs 9 through 35
CTs 36.02 through 41
CT 45
CTs 48 through 50
Partial Census Tracts:
CT 47—The part north of Pleasant Valley Road and west of Rice Avenue.

Congressional District 20: Congressional District 20 shall consist of the part of the County of Ventura not included in Congressional District 19; together with the following whole and partial census tracts in the County of Los Angeles:

Whole Census Tracts:
CTs 1066.02 through 1066.04
CTs 1081 and 1082
CTs 1112.01 through 1113.02
CTs 1131 through 1134.02
CTs 1341.01 through 1345
CT 1347
CT 1348.02
CTs 1351.01 through 1352.03
CTs 1372.01 through 1374.02
CTs 8001 through 8005
CT 9200.01
CTs 9200.03 through 9203.03
Partial Census Tracts:
CT 9200.02—The part included in Enumeration Districts 84, 85 and 90.

Congressional District 21: Congressional District 21 shall consist

of the following whole and partial census tracts in the County of Los Angeles:

Whole Census Tracts:
CTs 1041.01 through 1048
CTs 1061.01 through 1066.01
CTs 1067 and 1068
CTs 1091 through 1098.02
CTs 1111.01 and 1111.02
CTs 1114.01 and 1114.02
CTs 1151.01 through 1154.02
CTs 1171 through 1176
CTs 1191 through 1204
CTs 1211 through 1219
CT 1221
CTs 1223 and 1224
CTs 1231.01 through 1245
CTs 1247 through 1251
CTs 1271.01 through 1283.01
CT 1286
CT 1321
CTs 3201 through 3203
Partial Census Tracts:
CT 1285—The part north of Califa Street together with the part east of Tyrone Avenue and north of Burbank Boulevard.

Congressional District 22: Congressional District 22 shall consist of the part of the County of Los Angeles contained in the following whole census tracts:

CTs 1011 through 1034
CT 1222
CTs 3001 through 3118
CTs 4600 through 4628
CTs 4634 through 4640
CTs 9301 and 9302

Congressional District 23: Congressional District 23 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:

Whole Census Tracts:
CT 1246
CTs 1283.02 and 1284
CTs 1287.01 through 1319
CTs 1322 through 1331.02
CT 1346
CT 1348.01
CTs 1349.01 and 1349.02
CTs 1371.01 and 1371.02
CTs 1375.01 through 1417
CTs 1942 and 1943
CT 2149
CTs 2164 through 2166

CTs 2611.01 through 2624
CTs 2641.01 through 2643.01
CTs 2651 through 2703
CTs 7002 through 7003
CTs 7005 through 7011
Partial Census Tracts:
CT 1285—The part not included in Congressional District 21
CT 2643.02—The part east of Amherst Avenue and south of Montana Avenue together with the part east of Gretna Green Way
CT 7004—The part west of La Cienega Boulevard.

Congressional District 24: Congressional District 24 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 1252 through 1256
CTs 1431 through 1439.02
CTs 1881 through 1882.02
CTs 1891 through 1941
CTs 1944 through 1959
CTs 2084 through 2089
CT 2094
CTs 2111 through 2148
CTs 2151 through 2163
CTs 2167 through 2172
CT 3200
CT 7001
Partial Census Tracts:
CT 7004—The part not included in Congressional District 23.

Congressional District 25: Congressional District 25 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 1811 through 1873
CT 1883
CTs 1971 through 2083
CTs 2091 through 2093
CTs 2095 through 2098
CTs 2241 through 2267
CTs 5303 through 5316.02, all except CT 5313
Partial Census Tracts:
CT 5313—The part north of Union Pacific Avenue.

Congressional District 26: Congressional District 26 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 4004.01 through 4012.03
CTs 4038 through 4052
CT 4054
CT 4059

CTs 4300.01 through 4314
CTs 4316 through 4321.02
CTs 4629 through 4633
CTs 4641 and 4642
CTs 4800.01 through 4816.02
CTs 4818 through 4819.02
CT 4823.01
Partial Census Tracts:
CT 4315—The part west of Tyler Avenue and Santa Anita Avenue (formerly known as Double Drive) together with the part west of Double Drive.

Congressional District 27: Congressional District 27 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 2625 through 2628
CTs 2731 through 2742.99
CT 2753.02
CTs 2761 through 2781
CTs 6200 through 6214
CTs 6505 through 6507.02
CTs 6512.01 through 6514
CTs 6702.01 through 6706.99
CT 6707.02
CTs 7012.01 through 7023
CT 7029
Partial Census Tracts:
CT 2643.02—The part not included in Congressional District 23
CT 2753.01—The part not contained in Congressional District 28 east of McConnell Avenue or south of Centinela Creek
CT 6707.01—The part not included in Congressional District 32.

Congressional District 28: Congressional District 28 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 2181 through 2227
CTs 2312 through 2317
CT 2324
CTs 2341 through 2364
CTs 2711.01 through 2723.02
CTs 2751.01 through 2752
CTs 2754 through 2756
CTs 6005.01 through 6014.02
CTs 6019 and 6020.01
CTs 7024 through 7028.03
CTs 7030 through 7032
Partial Census Tracts:
CT 2753.01—The part east of McConnell Avenue and north of Centinela Creek.

Congressional District 29: Congressional District 29 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 2281 through 2311
CTs 2318 through 2323
CTs 2325 through 2328
CTs 2371 through 2411
CTs 2421 through 2431
CTs 5325 through 5332
CTs 5335 and 5336
CTs 5338.01 and 5338.02
CTs 5343 through 5362
CTs 6001 through 6002.02
CT 6004

Partial Census Tract:
CT 5324—The part west of Downey Road.

Congressional District 30: Congressional District 30 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 4069 through 4073
CTs 4075 through 4079
CTs 4082.02 through 4083.03
CTs 4322 through 4340
CT 4813
CTs 4817.01 and 4817.02
CTs 4820.01 through 4822
CTs 4823.02 through 4828
CTs 5004.01 through 5010
CTs 5022 through 5026.02
CTs 5300.01 through 5302
CTs 5317.01 through 5323.02
CTs 5333 and 5334
CT 5337
CTs 5339 through 5342

Partial Census Tracts:
CT 5313—The part not included in Congressional District 25
CT 4315—The part not included in Congressional District 26
CT 5324—The part not included in Congressional District 29.

Congressional District 31: Congressional District 31 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 2412 through 2416
CT 2911
CTs 5400 through 5410.01
CTs 5411 through 5432
CTs 5535 through 5539
CTs 6003.01 and 6003.02

CTs 6015 through 6018
CTs 6020.02 through 6041
CTs 6500.01 through 6503
Partial Census Tracts:
CT 2912—The part north of 168th Street.

Congressional District 32: Congressional District 32 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:

Whole Census Tracts:
CT 2913
CT 2921
CTs 2931 through 2976.99
CT 5410.02
CTs 5433.01 through 5440
CTs 5703.01 through 5704
CTs 5715.02 through 5718
CT 5720.02 through 5733
CTs 5752 through 5766
CTs 5990 and 5991
CT 6099
CT 6504
CTs 6508 through 6511
CTs 6700.01 through 6701
Partial Census Tracts:
CT 2912—The part not included in Congressional District 31
CT 5751—The part west of Temple Avenue
CT 5769—The part west of Gladys Avenue
CT 6707.01—The part located in Census Bureau Block Groups 1 and 2.

Congressional District 33: Congressional District 33 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 4033.01 and 4033.02
CT 4081.02
CT 4082.01
CTs 4084.01 through 4087.02
CTs 5001 through 5003
CTs 5012 through 5021
CTs 5027 through 5041.02
CTs 5500 through 5530
CT 5534
CT 5545.01
CTs 5546 and 5547
Partial Census Tracts:
CT 5545.02—The part east of the San Gabriel Freeway and north of 183rd Street.

Congressional District 34: Congressional District 34 shall consist of the part of the County of Los Angeles contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 5531 through 5533
CTs 5540 through 5544.02
CTs 5548 through 5702.02
CTs 5705 through 5715.01
CTs 5719 and 5720.01
CTs 5734 through 5750.02
CTs 5767 and 5768
CTs 5770 through 5776.03
Partial Census Tracts:
CT 5545.02—The part not included in Congressional District 33
CT 5751—The part not included in Congressional District 32
CT 5769—The part not included in Congressional District 32;
together with the part of Orange County contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 994.01 through 995.99
CTs 996.02 through 996.05
CTs 1100.06 through 1100.08
Partial Census Tracts:
CT 1100.09—The part located within the City of Seal Beach city limits as they existed on January 1, 1970.

Congressional District 35: Congressional District 35 shall consist of the part of the County of Los Angeles contained in the following whole census tracts:
CTs 4002 and 4003
CTs 4013.01 through 4032
CTs 4034 through 4037.02
CT 4053
CTs 4055 through 4058
CTs 4060 through 4068
CT 4074
CT 4080
CT 4081.01
CT 4081.03
CT 4088
CT 9300
together with the part of the County of San Bernardino contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 1 through 21
CT 92
Partial Census Tracts:
CT 27—The part not included in Congressional District 36.

Congressional District 36: Congressional District 36 shall consist of the part of the County of San Bernardino contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 22 through 26
CTs 28 through 44

CTs 46 through 50
CTs 53 through 60
CTs 64 through 71
Partial Census Tracts:
CT 27—The parts contained within the city boundaries of the City of Rialto as they existed on January 1, 1970; together with Blocks 113 and 202 through 218
CT 63—All except the part east of Elmwood Avenue and south of Pacific Avenue;

together with the part of the County of Riverside contained in the following whole census tracts:

CTs 301 through 423
CT 425.01

Congressional District 37: Congressional District 37 shall consist of the part of the County of San Bernardino not contained in Congressional District 35 or Congressional District 36; together with the part of the County of Riverside not contained in Congressional District 36 or Congressional District 43

Congressional District 38: Congressional District 38 shall consist of the part of the County of Orange contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 740.01 through 743
CTs 745.01 through 749
CTs 752.01 and 752.02
CT 753.02
CT 868.01
CTs 869.01 and 869.02
CTs 878.01 through 992.05
CT 996.01
CTs 997.01 through 1100 05
CTs 1101.01 through 1106.01
CT 1106.03
Partial Census Tracts:
CT 751—The part not included in Congressional District 40
CT 1100.09—The part not included in Congressional District 34.

Congressional District 39: Congressional District 39 shall consist of the part of the County of Orange not included in Congressional District 34, Congressional District 38, or Congressional District 40.

Congressional District 40: Congressional District 40 shall consist of the part of the County of Orange contained in the following whole and partial census tracts:

Whole Census Tracts:
CTs 320.01 through 39.06
CTs 744.01 and 744.02
CTs 750.01 and 750.02
CT 753.01
CTs 753.03 through 755.03
CT 757.01
CTs 992.06 through 993.03

Partial Census Tracts:
CT 751—The part located east of Baker Street and north of Washington Street
CT 756.03—The part located northwest of Redhill Avenue and southwest of La Colina Drive;
together with the part of the County of San Diego contained in the following whole census tracts:
CTs 181 through 185.02
CTs 185.04 through 187
CT 193

Congressional District 41: Congressional District 41 shall consist of the part of the County of San Diego contained in the following whole and partial census tracts:
Whole Census Tracts:
CTs 1 through 14
CTs 16 through 23
CTs 27.01 and 27.02
CTs 28.01 through 29.02
CTs 64 through 80.02
CT 81.02
CTs 83.01 and 83.02
CTs 85.01 through 94
CTs 96.01 through 99.01
CTs 145 through 152
Partial Census Tracts:
CT 81.01—The part south of Westbourne Street and west of Draper Avenue, together with the part south of Nautilus Avenue
CT 166.01—The part outside of the city boundaries of the City of El Cajon as they existed on January 1, 1970
CT 95—All except the part contained in Enumeration District 183.

Congressional District 42: Congressional District 42 shall consist of the part of the County of San Diego contained in the following whole and partial census tracts:
Whole Census Tracts:
CT 15
CTs 24 through 26
CTs 27.03 through 27.06
CTs 29.03 through 63
CTs 99.02 through 134.02
CTs 139.01 through 144
Partial Census Tracts:
CT 138—The part south of Troy Street.

Congressional District 43: Congressional District 43 shall consist of the entire County of Imperial; together with the part of the County of San Diego not included in Congressional District 40, Congressional District 41, or Congressional District 42; together with the part of the County of Riverside contained in the following whole census tracts:
CTs 427.01 through 432.

CHAPTER 5. EQUALIZATION DISTRICTS

30040. The state is divided into four equalization districts designated and constituted as provided by this chapter:

30041. The Counties of Alpine, Amador, Calaveras, El Dorado, Inyo, Madera, Mariposa, Merced, Mono, Monterey, Placer, San Benito, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Cruz, Stanislaus, Tuolumne, Ventura, and all that portion of the County of Los Angeles not in the Fourth Equalization District shall constitute the First Equalization District.

30042. The Counties of Fresno, Imperial, Kern, Kings, Orange, Riverside, San Bernardino, San Diego and Tulare shall constitute the Second Equalization District.

30043. The Counties of Alameda, Butte, Colusa, Contra Costa, Del Norte, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Plumas, Sacramento, San Joaquin, Santa Clara, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo and Yuba shall constitute the Third Equalization District.

30044. All that portion of Los Angeles County described and bounded as follows:

Beginning at the intersection of Santa Maria East Fork Road and the boundary common to the County of Los Angeles and the City of Los Angeles; northeasterly on Santa Maria East Fork Road to Mulholland Drive; generally easterly on Mulholland Drive to the south extension of Lankershim Boulevard; north on the south extension of Lankershim Boulevard and Lankershim Boulevard to the Los Angeles River; easterly on the Los Angeles River to the south Burbank city limits; northeast on the Burbank city limits to the Glendale city limits; generally north and east on the Glendale city limits to the boundary of the Angeles National Forest; east and south on the boundary of the Angeles National Forest to Pickins Canyon Wash; southwest on Pickins Canyon Wash to Foothill Boulevard; southeast on Foothill Boulevard to Vista Bonita Way; south and southwest on Vista Bonita Way to a north Glendale city limits; generally southeast on the Glendale city limits to the west Pasadena city limits; generally northeast, northwest, north, east, south and east to the Southern California Edison Company transmission line; easterly and southeasterly on the Southern California Edison Company transmission line to the boundary common to the County of Los Angeles and the City of Pasadena; north, east and south on the boundary common to the County of Los Angeles and the City of Pasadena to an angle point on the boundary common to the Angeles National Forest and the City of Pasadena (in the vicinity of Wilson Road; generally east on the boundary of the Angeles National Forest to a point representing the northwest corner of the City of Sierra Madre; south, west and south on the Sierra Madre boundary to a point common to the cities of Sierra Madre, Pasadena and Arcadia; generally south and east on the boundary common to the City of Arcadia and Temple City and the County of Los Angeles (the

vicinity of the intersection of Double Drive and Lynrose Street; south and generally west in varying directions along the boundary of the boundary of Temple City to a point common to Cities of Temple City, Rosemead and El Monte; south and east in varying directions along the boundary common to the Cities of Rosemead and El Monte to the San Bernardino Freeway; west on the San Bernardino Freeway to Rosemead Boulevard; southeast on Rosemead Boulevard to Garvey Avenue; west on Garvey Avenue to the Rio Hondo River; generally south and southwest on the Rio Hondo River to the City of Pico Rivera and the County of Los Angeles; generally east varying directions on the Pico Rivera boundary and the Los Angeles County boundary to U.S. Route 605; generally south on U.S. Route 605 to Beverly Boulevard; southeast on Beverly Boulevard to Mesagrove Avenue; northeast, east and southeast in various directions on the boundary common to the City of Whittier and the County of Los Angeles to a point common to the City of Whittier and to the Counties Los Angeles and Orange (the vicinity of the intersection of Janison Drive and Solejar Drive); west, south and generally southwest on the boundary common to the Counties of Los Angeles and Orange to the Pacific Ocean; west, northwest, north and northwest on the Pacific Ocean to the boundary common to the County of Los Angeles and the City of Los Angeles (in the vicinity of the intersection of the Pacific Coast Highway and Coastline Drive); generally north on the boundary common to the County of Los Angeles and the City of Los Angeles to Santa Maria East Fork Road; including the Islands of San Clemente and Santa Catalina shall constitute the Fourth Equalization District.

SEC. 25. It is the intent of the Legislature, if this bill and A.B. 1704 are both chaptered and take effect January 1, 1976, and this bill adds Section 64 to the Elections Code and A.B. 1704 adds Section 18601.5 to the Elections Code and amends Section 18602 of the Elections Code, that all be given effect and incorporated in Section 64 in the form set forth in Section 1.1 of this act. Therefore, in the event both this bill and A.B. 1704 are chaptered and take effect January 1, 1976, this bill adds Section 64, and A.B. 1704 adds Section 18601.5 and amends Section 18602, Section 64 as added by Section 1.1 of this act shall become operative, and Section 18601.5 as added by A.B. 1704, Section 18602 as amended by A.B. 1704, and Section 64 as added by Section 1 of this act are repealed. In the event A.B. 1704 is not chaptered or does not take effect January 1, 1976, adding Section 18601.5 and amending Section 18602, Section 64 as added by Section 1 of this act shall become operative and Section 64 as added by Section 1.1 of this act is repealed.

SEC. 25.5. It is the intent of the Legislature, if this bill and A.B. 822 are both chaptered and take effect on or before January 1, 1976, that Section 14002 of the Elections Code shall be amended in the form set forth in Section 2.2 of this act; and, upon the operative date of A.B. 822, Section 14002 of the Elections Code shall be amended in the form set forth in Section 2.3 of this act and on such date Section 2.2 of this act is repealed. It is the further intent of the Legislature,

if A.B. 822 is not chaptered and does not take effect on or before January 1, 1976, that Section 2.2 of this act shall become operative, and, in which case, Section 2.3 of this act shall not become operative

SEC. 26. It is the intent of the Legislature, if this bill and A.B. 822 are both chaptered and take effect January 1, 1976, and this bill adds Section 14694 to the Elections Code and A B. 822 amends Section 18237 of the Elections Code, that, upon the operative date of A.B. 822, both be given effect and incorporated in Section 14694 in the form set forth in Section 3.2 of this act. Therefore, in the event both this bill and A.B. 822 are chaptered and take effect January 1, 1976, this bill adds Section 14694 and A.B. 822 amends Section 18237, Section 14694 as added by Section 3.2 of this act shall become operative upon the operative date of A.B. 822, and Section 18237 as amended by A.B. 822 and Section 14694 as added by Section 3.1 of this act are, upon the operative date of A.B. 822, repealed. In the event A.B. 822 is not chaptered or does not take effect January 1, 1976, amending Section 18237, Section 14694 as added by Section 3.1 of this act shall become operative and Section 14694 as added by Section 3.2 of this act is repealed.

SEC. 27. In the event A.B. 822 is chaptered and takes effect January 1, 1976, repealing Section 17203 of the Elections Code, Section 17023 of the Elections Code as added by Section 9 of this act is, upon the operative date of A.B. 822, repealed.

SEC. 28. It is the intent of the Legislature, if this bill and A.B 1701 are both chaptered and take effect January 1, 1976, and this bill adds Section 17100 to the Elections Code and A.B. 1701 amends Section 18600 of the Elections Code, that both be given effect and incorporated in Section 17100 in the form set forth in Section 10 of this act. Therefore, in the event both this bill and A.B. 1701 are both chaptered and take effect January 1, 1976, this bill adds Section 17100 and A.B. 1701 amends Section 18600, Section 17100 as added by Section 10 of this act shall become operative, and Section 18600 as amended by A.B. 1701 and Section 17100 as added by Section 9 of this act are repealed. In the event A.B. 1701 is not chaptered or does not take effect January 1, 1976, amending Section 18600, Section 17100 as added by Section 9 of this act shall become operative and Section 17100 as added by Section 10 of this act is repealed.

SEC. 29. It is the intent of the Legislature, if this bill and A.B 1704 are both chaptered and take effect January 1, 1976, this bill adds Section 17101 to the Elections Code, and A.B. 1704 amends Section 18603 of the Elections Code, that both be given effect and incorporated in Section 17101 in the form set forth in Section 10.1 of this act. Therefore, in the event both this bill and A.B. 1704 are chaptered and take effect January 1, 1976, this bill adds Section 17101 and A.B. 1704 amends Section 18603, Section 17101 as added by Section 10.1 of this act shall become operative, and Section 18603 as amended by A.B. 1704 and Section 17101 as added by Section 9 of this act are repealed. In the event A.B. 1704 is not chaptered or does not take effect January 1, 1976, amending Section 18603, Section 17101 as added by Section 9 of this act shall become operative and Section

17101 as added by Section 10.1 of this act is repealed.

SEC. 30. In the event A.B. 822 is chaptered and takes effect January 1, 1976, repealing Section 17406 of the Elections Code, Section 17131 of the Elections Code as added by Section 9 of this bill is, upon the operative date of A.B. 822, repealed.

CHAPTER 1204

An act to amend Section 66622 of the Government Code, relating to the San Francisco Bay Conservation and Development Commission.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 66622 of the Government Code is amended to read:

66622. The members of the commission shall serve at the pleasure of their respective appointing powers. The members shall serve without compensation, but each of the members shall be reimbursed for his necessary expenses incurred in the performance of his duties; provided, however, that in lieu of such reimbursement for attendance at commission or committee meetings, or at meetings in an official capacity as a commissioner, each member of the commission or alternate who is not a state or federal employee shall receive a per diem of fifty dollars ($50) for each meeting attended, not to exceed a combined total of four such meetings in any one calendar month. No member of the commission who receives a per diem from any other source for attending a meeting shall receive a per diem under this section for attending the same meeting.

A member, subject to confirmation by his appointing power, may authorize an alternate for attendance at meetings and voting in his absence. Each alternate shall be designated in a written instrument which shall include evidence of the confirmation by the appointing power and his name shall be kept on file with the commission. Each member may change his alternate from time to time, with the confirmation of his appointing power, but shall have only one alternate at a time. Each alternate shall have the same qualifications as are required for the member who appointed him, except that each county representative may designate as his alternate a public official whom his appointing power deems qualified to represent the county.

CHAPTER 1205

An act to amend Sections 6210.3, 6210.8, 6210.9, 6221, 6303.1, 6501.1, 6501.2, 6502, 6503, and 7706 of, and to add Section 6219 to, the Public Resources Code, relating to state lands.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 6210.3 of the Public Resources Code is amended to read:

6210.3. The commission may grant easements and rights-of-way to the Department of Transportation to or over any of the public lands of the state for the purposes of rights-of-way for highways and for use in protecting highways from damage or destruction by natural forces.

SEC. 2. Section 6210.8 of the Public Resources Code is amended to read:

6210.8. Whenever a navigable river or slough becomes abandoned and is no longer useful for navigation, the commission may sell, for cash, or exchange for lands having equal or greater value, such abandoned river or slough channel to the abutting property owners or to anyone having an equitable interest therein. A patent for the land sold shall be issued in the name of the applicant. The commission shall send the patent to the Governor, together with a certificate stating that the laws in relation thereto have been complied with, that payment in full has been made, and that the person named in the prepared patent is entitled to it. The patent so issued shall inure to the benefit of the assigns, grantees, or successors in interest of said original applicant.

SEC. 3. Section 6210.9 of the Public Resources Code is amended to read:

6210.9. If the commission has public land, including school land, tide or submerged lands, and lands subject to the public trust for commerce, navigation, and fisheries, to which there is no access available, it may, in the name of the state, acquire by purchase, lease, gift, exchange, or, if all negotiations fail, by condemnation, a right-of-way or easement across privately owned land or other land that it deems necessary to provide access to such public land.

SEC. 4. Section 6219 is added to the Public Resources Code, to read:

6219. The commission may, if it determines it is in the best interests of the state, accept on behalf of the state any gift, devise, grant, quitclaim, or other conveyance of title to, or interest in, real property. Such land, when acquired, shall be examined for significant environmental values as defined pursuant to Section 6370.1, and classified and administered according to the rules and regulations of the commission.

SEC. 5. Section 6221 of the Public Resources Code is amended to read:

6221. Any instrumentality, district, agency, or political subdivision of the state occupying or using, pursuant to law, lands owned by the state and under the jurisdiction of the commission shall comply with the provisions of this division, and the commission shall issue a permit for occupancy of such land upon application. The commission shall prescribe, by rule or regulation, a reasonable filing fee which shall accompany the application, but such fee may not exceed the average of the commission's actual costs of receiving applications and making the initial title review for such permits. The application shall include:

(a) A description of the state lands involved, giving sufficient details or a survey tied to a record survey or monument in order to locate it accurately.

(b) The public use to be made of the land.

(c) Completed environmental documents prepared pursuant to the commission's rules and regulations.

SEC. 6. Section 6303.1 of the Public Resources Code is amended to read:

6303.1. Any person who knowingly and willfully fills, dredges, or reclaims any state-owned land under the jurisdiction of the commission underlying any navigable waters, or who erects, maintains, removes, or alters any structure on such land, without written authorization from the commission is guilty of a misdemeanor.

Nothing in this section shall be construed to prevent public agencies from performing emergency alteration, maintenance, repair, or removal of flood control works or structures on state-owned lands underlying navigable waters.

SEC. 7. Section 6501.1 of the Public Resources Code is amended to read:

6501.1. Lands owned by the state and which are under the jurisdiction of the commission may be leased for such purpose or purposes as the commission deems advisable, including, but not limited to, grazing leases and leases for commercial, industrial, and recreational purposes.

SEC. 8. Section 6501.2 of the Public Resources Code is amended to read:

6501.2. The commission shall prepare forms of leases for use under this chapter for such purposes as the commission deems advisable, including grazing leases and leases for commercial, industrial, and recreational purposes. Each form of lease shall contain such terms and conditions as the commission deems to be for the best interests of the state.

The commission shall also prepare forms of applications for each type of lease.

SEC. 9. Section 6502 of the Public Resources Code is amended to read:

6502. Any person, firm, or corporation desiring to lease any of the lands owned by the state, or in which the state may have an interest, and which are under the jurisdiction of the commission, for any purpose not prohibited or otherwise provided for by law, may make application therefor to the commission, describing the lands sought to be leased by legal subdivisions, or, if such lands are unsurveyed, by metes and bounds or by such other method as the commission may prescribe. The application shall be accompanied by a reasonable filing fee prescribed by the commission by rule or regulation, but such fee may not exceed the average of the commission's actual costs of receiving applications and making the initial title review for leases or the permits of the class applied for.

All applications to lease lands under this chapter shall be approved or rejected by the commission within 180 days after receipt thereof or within 90 days after completion of the environmental impact report required by Section 6371, whichever shall occur later. In no event shall an application be held more than 270 days after receipt without approval or rejection by the commission.

SEC. 10. Section 6503 of the Public Resources Code is amended to read:

6503. Upon receipt of an application to lease lands under this chapter, the commission shall appraise the lands and fix the annual rental or other consideration therefor; provided, no rental fee shall be charged for private recreational piers constructed for the use of a littoral land owner; provided, further, that such littoral land owner shall pay to the commission, in accordance with rules and regulations of the commission, the commission's expenses in issuing such lease. A littoral land owner, as used in this section, shall be only a natural person or persons, using the littoral land solely for a private single-family dwelling house and shall not include the owner of unimproved land.

SEC. 11. Section 7706 of the Public Resources Code is amended to read:

7706. Each application for lands shall be accompanied by a reasonable filing fee, not in excess of one hundred dollars ($100), as prescribed by the commission by rule or regulation, and no application shall be filed, or noted in any way until the fee is paid.

CHAPTER 1206

An act to amend Sections 23753.3, 23759, 23760, and 23801 of the Education Code, relating to the California State University and Colleges.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 23753.3 of the Education Code is amended to read:

23753.3. Notwithstanding any other provision of law to the contrary, revenues received by the Trustees of the California State University and Colleges from extension programs, special session and other self-supporting instructional programs, including but not limited to fees and charges required by the trustees, shall be transmitted to the State Treasurer and shall be deposited by that officer in the State Treasury to the credit of the State University and College Continuing Education Revenue Fund, which fund is hereby created, and which is hereby designated as successor to the State College Extension Program Revenue Fund.

All such revenues are hereby appropriated, without regard to fiscal years, to the trustees for the support and development of self-supporting instructional programs of the California State University and Colleges; provided, nevertheless, that proposed expenditures or obligations to be incurred during any fiscal year from the State University and College Continuing Education Revenue Fund shall be contained in the budget submitted for that fiscal year by the Governor pursuant to Section 12 of Article IV of the Constitution, and shall be subject to the provisions of Article 2 (commencing with Section 13320) of Chapter 3, Part 3, Division 3, Title 2, of the Government Code.

Moneys in the State University and College Continuing Education Revenue Fund may be invested by the State Treasurer, upon approval of the trustees, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to such investments shall be collected by the State Treasurer and shall be deposited in the State Treasury to the credit of the State University and College Continuing Education Revenue Fund.

SEC. 2. Section 23759 of the Education Code is amended to read:

23759. Tuition fees adequate, in the long run, to meet the cost of maintaining special sessions in the California State University and Colleges shall be required of, and collected from, students enrolled in each such special session under and pursuant to rules and regulations prescribed by the trustees.

"Special sessions" as used in this division shall mean self-supporting instructional programs conducted by the California State University and Colleges. Such special sessions shall include, but not be limited to, career enrichment and retraining programs. It is the intent of the Legislature that those programs, currently offered on a self-supporting basis by the California State University and Colleges during summer sessions, may be provided throughout the year, and shall be known as special sessions. Such self-supporting special sessions shall not supplant regular course offerings available on a non-self-supporting basis during the regular academic year.

SEC. 3. Section 23760 of the Education Code is amended to read:

23760. The trustees may require and collect special fees to cover cost of materials for specific services and other fees to cover the cost of accommodation services and other services provided students from students enrolled in each special session.

SEC. 4. Section 23801 of the Education Code is amended to read:

23801. A student body organization may be established at any state college or university under the supervision of the college or university officials for the purpose of providing essential activities closely related to, but not normally included as a part of, the regular instructional program of the college or university. Such an organization may also operate a campus store, a cafeteria, and other projects not inconsistent with the purposes of the college or university, and property of the college or university may be leased to such an organization for such purposes.

The trustees may fix fees for voluntary membership in such organization established at a state college or university.

Notwithstanding any provisions of law to the contrary, if a student body organization is established at any state college or university, upon the favorable vote of two-thirds of the students voting in an election held for this purpose, in such manner as the trustees shall prescribe, and open to all regular students enrolled in such college or university, the trustees shall fix a membership fee which shall be required of all regular, limited and special session students attending such college or university. No fees shall be charged to students registering solely in extension classes.

Such required fee shall be subject to referendum at any time upon the presentation of a petition to the president of the college or university containing the signatures of 20 percent of the regularly enrolled students at such college or university. A successful referendum shall take effect with the beginning of the academic year following that in which the election was held.

Payment of membership fees pursuant to this section shall be a prerequisite to enrollment in the college or university, except that if sufficient funds are available any state college or university student may at his option and subject to the regulations of the trustees establishing standards in that regard, agree to work off the amount of the fee at the prevailing rate of the college or university for student assistants. The trustees may adopt regulations setting standards for determining which students shall be eligible to work off the amount of the fee. No student shall be required to pay student body membership fees in an aggregate amount exceeding twenty dollars ($20) per academic year.

Subject to regulations of the trustees, the revenues raised pursuant to this section may, in addition to expenditures for other lawful purposes involved in the operations of the student body organization, be expended to provide for the support of governmental affairs representatives who may be attending upon the State Legislature or upon offices and agencies in the executive

branch of the state government

SEC. 5. Section 23801 of the Education Code is amended to read:

23801 A student body organization may be established at any state college or university under the supervision of the college or university officials for the purpose of providing essential activities closely related to, but not normally included as a part of, the regular instructional program of the college or university. Such an organization may also operate a campus store, a cafeteria, and other projects not inconsistent with the purposes of the college or university, and property of the college or university may be leased to such an organization for such purposes.

The trustees may fix fees for voluntary membership in such organization established at a state college or university.

Notwithstanding any provisions of law to the contrary, if a student body organization is established at any state college or university, upon the favorable vote of two-thirds of the students voting in an election held for this purpose, in such manner as the trustees shall prescribe, and open to all regular students enrolled in such college or university, the trustees shall fix a membership fee which shall be required of all regular, limited and special session students attending such college or university. No fees shall be charged to students registering solely in extension classes.

Such required fee shall be subject to referendum at any time upon the presentation of a petition to the president of the college or university containing the signatures of 20 percent of the regularly enrolled students at such college or university. A successful referendum shall take effect with the beginning of the academic year following that in which the election was held.

Payment of membership fees pursuant to this section shall be a prerequisite to enrollment in the college or university, except that if sufficient funds are available any state college or university student may at his option and subject to the regulations of the trustees establishing standards in that regard, agree to work off the amount of the fee at the prevailing rate of the college or university for student assistants. The trustees may adopt regulations setting standards for determining which students shall be eligible to work off the amount of the fee. No student shall be required to pay student body membership fees in an aggregate amount exceeding twenty dollars ($20) per academic year.

The revenues raised pursuant to this section may, in addition to expenditures for other lawful purposes involved in the operations of the student body organization, be expended to provide for the support of governmental affairs representatives who may be attending upon the State Legislature or upon offices and agencies in the executive branch of the state government.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill No. 1913 are both chaptered and become effective January 1, 1976, both bills amend Section 23801 of the Education Code, and this bill is chaptered after Assembly Bill No. 1913, that the amendments

to Section 23801 proposed by both bills be given effect and incorporated in Section 23801 in the form set forth in Section 5 of this act. Therefore, Section 5 of this act shall become operative only if this bill and Assembly Bill No. 1913 are both chaptered and become effective January 1, 1976, both amend Section 23801, and this bill is chaptered after Assembly Bill No. 1913, in which case Section 4 of this act shall not become operative.

CHAPTER 1207

An act to amend Sections 2, 3, and 4 of Chapter 456 of the Statutes of 1974, relating to property taxation.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 2 of Chapter 456 of the Statutes of 1974 is amended to read:

Sec. 2. (a) The State Board of Equalization shall compute the reduction in assessed values of local agencies assessing property of a type classified in Section 1 of this act which would have occurred if Section 1 had been in effect with respect to assessments for the 1973–74 fiscal year and shall certify such amounts to the Controller and Director of Finance on or before September 30, 1974. Such computations shall not apply to local agencies which assessed such property for the 1973–74 fiscal year as escape assessments only.

(b) County auditors of counties which assessed property of a type classified in Section 1 of this act for the 1973–74 fiscal year shall on or before October 31st of each fiscal year report to the Controller the property tax rate which would have applied to the type of property classified by Section 1 of this act.

(c) The Controller shall multiply the reduction in assessed value for each agency as certified pursuant to subdivision (a) by the tax rate reported for each agency pursuant to subdivision (b) and shall report the total amount of such claims to the Legislature annually on or before November 15th or, if the Legislature is not then in session, on the first legislative day thereafter, in order that the Legislature may appropriate funds for subventions for the loss of revenue resulting from the classification of property by Section 1 of this act

SEC. 2. Section 3 of Chapter 456 of the Statutes of 1974 is amended to read:

Sec. 3. Section 1 of this act shall be operative with respect to assessments for the 1975–76 fiscal year to the 1979–80 fiscal year, inclusive, and as of such date is repealed, unless a later enacted statute, which is chaptered before March 1, 1980, deletes or extends such date.

SEC. 3. Section 4 of Chapter 456 of the Statutes of 1974 is amended to read:

Sec. 4. The Legislative Analyst shall report to the Legislature on or before October 15, 1978, on the economic effect of this act, including the type of records which have been classified pursuant to this act.

SEC. 5. No escape assessment shall be levied against property of a type classified in Section 997 of the Revenue and Taxation Code by any local agency which did not assess property of that type for the 1971–72, 1972–73, 1973–74, and 1974–75 fiscal years.

SEC. 6. Section 1 of Chapter 456 of the Statutes of 1974 is declaratory of existing law; and Sections 2 and 3 of Chapter 456 of the Statutes of 1974 are intended to provide equitable reimbursement to local agencies that have relied for the period required by this act upon the tax revenue from the assessment of the value of the intangible property classified in Section 1 of Chapter 456 of the Statutes of 1974.

CHAPTER 1208

An act to amend Sections 10605 and 10606 of, and to amend and renumber Section 790.025 of, the Insurance Code, relating to disability insurance.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 790.025 of the Insurance Code is amended and renumbered to read:

10609. Beginning on or before January 1, 1976, each insurer shall, to the extent required by the commissioner, file with the commissioner copies of all printed advertising which the insurer proposes to disseminate in the state.

SEC. 2. Section 10605 of the Insurance Code is amended to read:

10605. (a) Effective July 1, 1976, all insurers, and their employees and agents, shall, when presenting any disability insurance policy for examination or sale to an individual prospective insured or individual prospective subscriber, provide such individual with a properly completed disclosure form, as prescribed by the commissioner pursuant to Sections 10603 and 10604, for each disability insurance policy so examined or sold.

(b) In the case of group disability insurance contracts, the completed disclosure form shall be presented to the contract holder upon delivery of the group policy or contract.

(c) Group insurance contract holders shall disseminate copies of the completed disclosure form to all persons or family units eligible

under the group contract. Where the individual members of the group are offered a choice of policies, separate disclosure forms shall be supplied for each policy available.

(d) Disability insurance issued in connection with an employees' welfare plan subject to the Federal Employee Retirement Income Security Act of 1974 (P.L. 93-406) is exempt from the provisions of this chapter.

SEC. 3. Section 10606 of the Insurance Code is amended to read:

10606. Effective July 1, 1976, where the commissioner finds it necessary in the interest of full and fair disclosure, all advertising and other consumer information, including brochures, disseminated by insurers for the purpose of influencing persons to purchase health insurance shall contain such supplemental disclosure information as the commissioner may require.

CHAPTER 1209

An act to amend Sections 69606, 74901, 74907, 74908, 74909, 74911 and 74912 of, to add Section 74001 5 to, and to repeal and add Section 72602.9 to the Government Code, relating to courts.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 69606 of the Government Code is amended to read:

69606. In the County of Ventura there shall be seven judges of the superior court, and eight judges of the superior court effective July 1, 1976.

SEC. 2. Section 72602.9 of the Government Code is repealed.

SEC. 3. Section 72602.9 is added to the Government Code, to read:

72602.9. Notwithstanding any other provision of law, there shall be six judges in the Citrus Judicial District.

SEC. 4. Section 74001.5 is added to the Government Code, to read:

74001.5. The judges of the West Orange County Judicial District may appoint one court commissioner. The commissioner shall possess the same qualifications as the law requires of a judge of the municipal court. The commissioner shall hold office at the pleasure of the judges and shall receive a monthly salary in the same sum as is paid a commissioner of the Los Angeles Municipal Court District. The commissioner shall be ex officio deputy clerk of the court and shall be a member of any retirement system which includes the attachés of the court and shall receive the same fringe benefits as granted to such attachés. The commissioner shall not engage in the

private practice of law

SEC. 5. Section 74901 of the Government Code is amended to read:

74901. There shall be eight judges, and nine judges effective July 1, 1976.

SEC. 6. Section 74907 of the Government Code is amended to read:

74907. The court executive officer may appoint the following positions who shall receive biweekly compensation specified in Section 74909:

(a) Three chief deputy municipal court clerks.
(b) Seven deputy municipal court clerks IV.
(c) Sixteen deputy municipal court clerks III.
(d) Twenty-two deputy municipal court clerks II.

However, one deputy municipal court clerk II position shall be filled by one former incumbent deputy municipal court clerk V, who shall receive a salary not less than eight hundred thirty-eight dollars ($838) per month until such time as the salary range of the deputy municipal court clerk II as herein described reaches said incumbent salary of eight hundred thirty-eight dollars ($838).

(e) Fifteen deputy municipal court clerks I.
(f) One deputy municipal court legal process clerk.
(g) Four deputy municipal court clerk interpreters.
(h) Three municipal court secretaries.
(i) One data entry operator III.
(j) Three data entry operators II.
(k) Two data entry operators I
(*l*) One clerk.
(m) One administrative aide.
(n) One accounting technician.

SEC. 7. Section 74908 of the Government Code is amended to read:

74908. The Marshal of the Ventura County Municipal Court may appoint the following positions who shall receive biweekly compensation specified in Section 74909:

(a) One captain.
(b) Two lieutenants.
(c) Four sergeants
(d) Twenty-six deputy marshals.
(e) Five senior marshal's process clerks.
(f) Five marshal's process clerks.
(g) One senior secretary.
(h) Such deputies who shall be keepers as may be reasonably required pursuant to law at the fee allowed by law for keeping property.

The occupants of positions of senior marshal's process clerk and marshal's process clerk shall, when required, be assigned to additional duties as matron, and during the period of such assignment shall receive additional compensation.

SEC. 8 Section 74909 of the Government Code is amended to read:

74909. (a) The following biweekly salary schedule, which is consistent with the salary ordinance of the County of Ventura, shall apply to the personnel of the Ventura County Municipal Court.

Municipal court classification	Biweekly rate
Chief deputy municipal court clerk	$510.74–621.13
Deputy municipal court clerk IV	408.91–496.82
Deputy municipal court clerk III	371.33–450.55
Deputy municipal court clerk II	320.43–389.24
Deputy municipal court clerk I	281.24–336.67
Deputy municipal court clerk legal process clerk	344.13–418.16
Deputy municipal court clerk interpreter	320.43–389.24
Data entry operator III	313.26–380.89
Data entry operator II	276.47–336.39
Data entry operator I	264.01–320.37
Municipal court secretary	362.05–439.55
Clerk	240.89–287.71
Administrative aide	413.32–502.56
Accounting technician	419.44–509.62

Merit increases within the salary range shall consist of 5 percent.

Municipal court/marshal classification	Biweekly rate
Captain	$763.42–928.03
Lieutenant	675.28–821.09
Sergeant	584.20–710.19
Deputy marshal	492.82–598.42
Senior secretary	344.13–418.16
Senior marshal's process clerk	344.13–418.16
Marshal's process clerk	297.87–362.05

Merit increases within the salary range shall be in accordance with the salary merit increment plan.

(b) In the event that the above biweekly salary schedule is not applicable, then Section 74912 shall apply.

SEC. 9. Section 74911 of the Government Code is amended to read:

74911. (a) All attachés and employees of the Ventura County Municipal Court shall be entitled to anniversary dates and salary step increases in the manner provided in the Ventura County Personnel and Salary Ordinance and shall receive the same vacation, sick leave, leave of absence, overtime and similar privileges and benefits provided for the officers and employees of Ventura County.

Except as otherwise provided in this article, the provisions of the Ventura County Ordinance Code relating to the civil service system of the county, and the rules of the civil service commission adopted

pursuant thereto, shall be applicable to all attachés and employees of the Ventura County Municipal Court in the same manner and to the same extent as applicable generally to the officers and employees of Ventura County. The Ventura County Civil Service Commission shall exercise the same jurisdiction over the attachés and employees of the Ventura County Municipal Court as it exercises over the officers and employees of the county.

(b) The provisions of subdivision (a) shall not apply to the court executive officer, assistant clerk, or marshal. Such persons shall receive the benefits as provided by the Ventura County Management Compensation Plan.

SEC. 10. Section 74912 of the Government Code is amended to read:

74912. (a) Certain classifications in the Ventura County Municipal Court are deemed to be equivalent in position responsibility and salary level to certain classifications in the service of Ventura County and whenever the salary of an equivalent classification in the Ventura County service is adjusted by the board of supervisors, the salary of the equivalent classification in the Ventura County Municipal Court and the salary of the personnel in such classifications, shall be adjusted an equivalent amount. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the Ventura County service. Any salary increases granted or reclassifications made pursuant to this article shall be effective only until the effective date of general legislation enacted by the Legislature at its next regular session following the date such salary increases are granted or reclassifications made. Classifications deemed to be equivalent are as follows:

Municipal court classification	County classification
Chief deputy municipal court clerk	Chief superior court clerk
Deputy municipal court clerk IV	Superior court clerk IV
Deputy municipal court clerk III	Superior court clerk III
Deputy municipal court clerk II	Superior court clerk II
Deputy municipal court clerk I	Superior court clerk I
Deputy municipal court legal process clerk	Legal process clerk
Data entry operator III	Data entry operator III
Data entry operator II	Data entry operator II
Data entry operator I	Data entry operator I
Municipal court secretary	Superior court secretary
Clerk	Clerk
Administrative aide	Administrative aide
Accounting technician	Accounting technician

Municipal court/marshal classification	County classification
Captain	Sheriff's captain
Lieutenant	Sheriff's lieutenant
Sergeant	Sheriff's sergeant
Deputy marshal	Deputy sheriff
Senior secretary	Senior secretary
Senior marshal's process clerk	Legal process clerk
Marshal's process clerk	Civil process clerk

In order to carry out the intent of Section 74912 herein, whenever the salary of the class of deputy municipal court clerk I is adjusted as described above, the salary of deputy municipal court clerk interpreter shall be adjusted an equivalent number of ranges or steps as necessary on the schedule.

SEC. 11. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to Section 2231 nor shall any appropriation be made for any costs that may be incurred by local agencies pursuant to this act.

CHAPTER 1210

An act to amend Section 6817 of, and to add and repeal Section 6226 of, the Public Resources Code, relating to state and local lands, and making an appropriation therefor.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 6226 is added to the Public Resources Code, to read:

6226. (a) The commission shall, in cooperation with other appropriate state agencies, conduct research and investigations into natural and manmade seeps of oil, dry gas, and other hydrocarbon products occurring offshore and which contribute or could contribute to the pollution of beaches, tidelands, and submerged lands of the state. Such research shall include, but not be limited to, the following:

(1) Determination of the magnitude and extent of contamination.

(2) Identification of the sources of the pollution.

(3) Documentation of the geophysical aspects of active seepage zones.

(4) Examination of the cause-and-effect relationship between offshore oil sources and marine pollution.

(5) Methods of reducing, mitigating, or eliminating pollution

from such leaks.

For the purpose of this section, the commission may contract, upon such terms and conditions as it shall determine to be in the best interests of the state, with one or more private persons, firms, associations, organizations, partnerships, corporations, companies, or public agencies to conduct such research and investigation

(b) The commission may apply to any agency of the state or federal government or any private agency which may now or in the future provide financial assistance for the programs specified in this section.

SEC. 2. Section 6817 of the Public Resources Code is amended to read:

6817. (a) The Controller shall annually as of June 30th of each calendar year apportion for the fiscal year ending on such date to each city or county having within its boundaries ungranted tide and submerged lands or such other tide and submerged lands granted to it by the state in which the state has reserved the rights to the mineral deposits contained therein, one percent (1%) of the revenues paid to the state under Article 4 (commencing with Section 6871) of this chapter from such tide and submerged lands which are within the limits of the particular county or city, except that the total amount apportioned to each city or county in each year shall not exceed seventy-five thousand dollars ($75,000) per mile, or fraction of a mile, of ocean frontage within and owned or operated as a park by such city or county and leased by the State Lands Commission for the production of oil, gas, and other hydrocarbons, and only in those cases where such ocean frontage is available to the public free of charge for recreational purposes. Any city which is fronted, in whole or in part, by a state oil and gas lease and which owns or operates a public recreational beach on the ocean shall be qualified to receive an apportionment under this section based on the formula contained herein. For purposes of this section tide and submerged lands within the limits of a city shall not be deemed to be within the boundaries of a county except in the case of a city and county. The State Lands Commission shall at the time of remitting revenues to the State Treasury received under Article 4 (commencing with Section 6871) of this chapter report to the State Controller the total amount of the revenue paid from the tide and submerged lands to the state shown with respect to each city or county to which such amount is applicable. The apportionment for any given fiscal year shall be based upon the physical facts with respect to each city or county existing on June 30th of the next preceding fiscal year. The report of the State Lands Commission and the apportionments of the Controller shall be final.

(b) The amounts paid to the several cities and counties shall be deposited in a special tide and submerged lands fund established by such cities or counties, to be held in trust and to be expended only for the promotion and accommodation of commerce, navigation, and fisheries, for the protection of the lands within the boundaries of the

cities and counties, and for the promotion, accommodation, establishment, improvement, operation, and maintenance of public recreational beaches and coastline for the benefit of all the people of the state.

(c) The Legislature hereby finds and declares that the purposes specified in subdivision (b) constitute matters of statewide interest and that the expenditure of funds for such purposes will benefit all of the people of the state.

This section shall be operative with respect to all revenues received in the State Treasury on and after October 1, 1963.

CHAPTER 1211

An act to amend Sections 1114 and 1332 of the Education Code, to amend Sections 310, 321.5, 10204, 10219.2, 10261, 22870, and 23515 of, to add Sections 10202, 10202.5, 10202.6, 10217, and 10217.5 to, and to repeal Sections 10202, 10202.5, 10203, 10206, 10208, 10209, 10210, 10303, 10305, 10306, 10307, and 10308 of, the Elections Code, and to amend Sections 3800 and 3801 of the Government Code, relating to public officials.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 1114 of the Education Code is amended to read:

1114. In any school district governing board election the name of any registered voter shall be placed on the ballot if there is filed with the county clerk having jurisdiction not more than 89 days nor less than 59 days prior to the election:

(a) A declaration of candidacy substantially in the form set forth in subdivision (a) of Section 1129, containing the appropriate information in the blank spaces and signed by the registered voter whose name is thereby to be placed on the ballot; or

(b) Nomination by sponsors, substantially in the form set forth in subdivision (b) of Section 1129, containing the appropriate information in the blank spaces and signed by at least three but not more than 10 persons each of whom is a registered voter and a parent of a pupil enrolled in a public school in the district.

No candidate whose declaration of candidacy or nomination by sponsors has been filed for any school district governing board election or county board of education election may withdraw as a candidate after the 59th day prior to the election.

Notwithstanding any other provision of law, no person shall file nomination papers for more than one school office, including a county board of education office, at the same election.

SEC. 2. Section 1332 of the Education Code is amended to read:

1332. When a consolidated school district governing board member election is required to be held there shall be as many separate lists of candidates as there are school districts for which governing board members are to be elected. Each list of candidates shall be headed by the name of the school district for which the persons listed are governing board member candidates. The name of each school district shall be printed in capital letters, and shall be separated from the list of candidates beneath it by a line. The names of the school districts with the list of candidates for governing board member of each district following each name shall be arranged in the following order, as the case may require:

(a) First, elementary school district; second, high school district; third, community college district, if there be one; or

(b) First, unified district; second, community college district; or

(c) First, high school district; second, community college district.

The names of the candidates for the office of governing board member of one district shall not be separated from each other on the ballot by the names of candidates for governing board member of another district, and the list of candidates for each district shall be separated from the other lists by two double rules, one below the list of candidates and one above the name of the district which precedes the list. The name of each candidate shall be printed or typewritten on the ballot with a blank square after each name in which the voter may place his cross (+). Following each list of candidates, the ballot shall provide at least as many blank lines, with blank squares following, as there are members to be elected in the particular school district concerned.

Candidates for office in each school district shall be listed on the ballot as follows, whether on a separate ballot for the district or on the list for the district on a consolidated ballot:

(a) The candidates shall be placed on a single list on the ballot regardless of how many members are to be elected;

(b) In an election held under Section 1120 to elect additional governing board members, the candidates for the new offices shall be listed separately from the candidates for the existing office and shall be voted for separately;

(c) When an election to recall a governing board member is held on the third Tuesday in April, the candidates for the office to succeed the incumbent if he is recalled shall be listed separately from the candidates to succeed governing board members whose recall is not sought.

SEC. 3. Section 310 of the Elections Code is amended to read:

310. The affidavit of registration shall show:

(a) The facts necessary to establish the affiant as an elector.

(b) Affiant's name at length, including his given name, and a middle name or initial, or if the initial of his given name is customarily used, then the initial and middle name. The affiant's given name may be preceded, at his option, by the designation of

Miss, Ms., Mrs. or Mr. Notwithstanding this section or Section 321, no person shall be denied the right to register because of his failure to mark a prefix to his given name and shall be so advised on the voter registration card.

(c) Affiant's place of residence; and residence telephone number, if furnished. Notwithstanding this section or Section 321, no person shall be denied the right to register because of his failure to furnish his telephone number, and shall be so advised on the voter registration card.

(d) Affiant's mailing address, if different from place of residence.

(e) Affiant's social security number, if furnished. If his social security number is not immediately available, the affiant may mail the number to the county clerk on an addressed postcard provided for that purpose. Notwithstanding this section or Section 321, no person shall be denied the right to register because of his failure to furnish his social security number, and shall be so advised on the voter registration card.

(f) Affiant's date of birth.

(g) The state or country of affiant's birth.

(h) Affiant's occupation.

(i) Affiant's political party affiliation, if any.

(j) That the affiant is currently not imprisoned or on parole for the conviction of a felony which disqualifies him from voting.

(k) A prior registration portion indicating whether the affiant has been registered at another address, under another name, or as intending to affiliate with another party. If the affiant has been so registered, he shall sign such additional statement giving that address, name, or party.

The affiant shall certify the content of the affidavit as to its truth and correctness, under penalty of perjury, with his signature of his name at length, including given name, middle name or initial, or initial and middle name, and if he is unable to write he shall sign with a mark or cross. The affiant shall date the affidavit immediately following his signature.

If any person, including a deputy registrar, assists the affiant in completing the affidavit, that person shall sign and date the affidavit below the signature of the affiant.

SEC. 4. Section 321.5 of the Elections Code is amended to read:

321.5. The county clerk, upon request, shall determine whether a person who has been convicted of a felony is qualified to vote. If the county clerk determines in the person's favor, the person may lawfully swear that he has not been convicted of a felony which disqualifies him from voting, and the county clerk shall so inform him. If the county clerk does not determine in the person's favor, the county clerk shall inform the person of his right to file in the superior court under Section 350 for a judicial determination of his eligibility to register and vote.

SEC. 5. Section 10202 of the Elections Code is repealed.

SEC. 6. Section 10202 is added to the Elections Code, to read:

10202. Candidates for each office shall be printed on the ballot in accordance with the following rules:

(a) The names of presidential candidates to whom candidates for delegate to the national convention are pledged and the names of chairmen of groups of candidates for delegate expressing no preference shall be arranged on the primary election ballot by the Secretary of State by the names of the candidates in accordance with the randomized alphabet as provided for in Section 10202.5 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, in the order of the other names remaining unchanged.

(b) The names of the pairs of candidates for President and Vice President shall be arranged on the general election ballot by the Secretary of State by the names of the candidates for President in accordance with the randomized alphabet as provided for in Section 10202.5 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the pair appearing first in the last preceding Assembly district shall be placed last, the order of the other pairs remaining unchanged.

(c) In the case of all other offices, the candidates for which are to be voted on throughout the state, the Secretary of State shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 10202.5 for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(d) If the office is that of Representative in Congress or member of the State Board of Equalization, the Secretary of State shall arrange the names of candidates for the office in accordance with the randomized alphabet as provided for in Section 10202.5 for that Assembly district which has the lowest number of all the Assembly districts in which candidates are to be voted on. Thereafter, for each succeeding Assembly district in which the candidates are to be voted on, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(e) If the office is that of State Senator or Member of the Assembly, the county clerk shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 10202.5.

(f) If the office is to be voted upon wholly within, but not throughout, one county, as in the case of municipal, district, county supervisor, municipal court, justice court, and county central committee offices, the official responsible for conducting the election shall determine the order of names in accordance with the randomized alphabet as provided for in Section 10202.5.

(g) If the office is to be voted on throughout a single county and there are not more than four Assembly districts wholly or partly in

the county, the county clerk shall determine the order of names in accordance with the randomized alphabet as provided for in Section 10202.5 for the first supervisorial district. Thereafter, for each succeeding supervisorial district, the name appearing first for each office in the last preceding supervisorial district shall be placed last, the order of the other names remaining unchanged.

If there are five or more Assembly districts wholly or partly in the county, an identical procedure shall be followed except that rotation shall be by Assembly district, commencing with the Assembly district which has the lowest number.

SEC. 7. Section 10202.5 of the Elections Code is repealed.

SEC. 8. Section 10202.5 is added to the Elections Code, to read:

10202.5. The Secretary of State shall conduct a drawing of the letters of the alphabet, the result of which shall be known as a randomized alphabet. The procedure shall be as follows:

(a) Each letter of the alphabet shall be written on a separate slip of paper each of which shall be folded and inserted into a capsule. Each capsule shall be opaque and of uniform weight, color, size, shape, and texture. The capsules shall be placed in a container which shall be shaken vigorously in order to mix them thoroughly. The container then shall be opened and the capsules removed at random one at a time. As each is removed, it shall be opened and the letter on the slip of paper read aloud and written down. The resulting random order of letters constitutes the randomized alphabet which is to be used in the same manner as the conventional alphabet in determining the order of all candidates in all elections. For example, if two candidates with the surnames Campbell and Carlson are running for the same office, their order on the ballot will depend on the order in which the letters M and R were drawn in the randomized alphabet drawing.

(b) There shall be six such drawings, three in each even-numbered year and three in each odd-numbered year. Each drawing shall be held at 11 a.m. on the date specified in this subdivision. The results of each drawing shall be mailed immediately to each county clerk or other official responsible for conducting an election to which the drawing is applicable who shall use it in determining the order on the ballot of the names of the candidates for office.

The first such drawing shall take place on the Monday following the first day of January in an even-numbered year and shall apply to the March general law city elections and any other elections held at the same time.

The second shall take place on the third Monday in March of an even-numbered year and shall apply to all candidates on the ballot in the June primary election.

The third shall take place on the third Monday in September of an even-numbered year and shall apply to all candidates on the ballot in the November general election.

In the case of the June primary election and the November general

election, the Secretary of State shall certify and transmit to each county clerk the order in which the names of federal and state candidates, with the exception of candidates for State Senate and Assembly, shall appear on the ballot. The clerk shall determine the order on the ballot of all other candidates using the appropriate randomized alphabet for that purpose.

The fourth drawing shall take place on the Monday following the first day of January in an odd-numbered year and shall apply to all candidates on the ballot in the elections held on the first Tuesday after the first Monday in March of that year.

The fifth drawing shall take place on the first Monday in April of the odd-numbered year and shall apply to all candidates on the ballot in elections held on the last Tuesday in May of that year.

The sixth shall take place on the second Monday in September of the odd-numbered year and shall apply to all candidates on the ballot in the November elections conducted under the Uniform District Election Law and any other elections held at the same time.

(c) Each randomized alphabet drawing shall be open to the public. At least 10 days prior to a drawing, the Secretary of State shall notify the news media and other interested parties of the date, time, and place of it. The president of each statewide association of local officials with responsibilities for conducting elections shall be invited by the Secretary of State to attend each drawing or send a representative. The state chairman of each qualified political party shall be invited to attend or send a representative in the case of drawings held to determine the order of candidates on the June primary election ballot, the November general election ballot, or a special election ballot as provided for in subdivision (d) of this section.

(d) In the case of any special election for State Assembly, State Senate, or Representative in Congress, on the first Monday after the close of filing of nomination papers for the office, the Secretary of State shall conduct a public drawing to produce a randomized alphabet in the same manner as provided for in subdivisions (a) and (c) of this section. The resulting randomized alphabet shall be used for determining the order on the ballot of the candidates in both the primary election for the special election and in the special election.

SEC. 9. Section 10202.6 is added to the Elections Code, to read:

10202.6. In the case of an election of candidates in a special district, school district, charter city (whose charter does not provide to the contrary), or other local government body, occurring on other than one of the six major election dates specified in subdivision (b) of Section 10202.5, the official responsible for conducting the election shall, at the same time that the election is called, notify the Secretary of State by registered mail of the date of the election, the date of the close of filing, and the last possible date for filing in the event there is an extension of filing due to an incumbent failing to file. The Secretary of State shall conduct a randomized alphabet drawing on the first weekday following the last possible day of filing for such an

election according to the provisions of subdivision (a) of Section 10202.5. If two or more such drawings for local government elections would occur on the same date, the Secretary of State may use a single randomized alphabet drawing for all such elections. The Secretary of State shall communicate the results of the drawing by registered mail to each respective official responsible for conducting the election who shall use it to determine the order on the ballot of all candidates' names. All such drawings shall be open to the public.

SEC. 10. Section 10203 of the Elections Code is repealed.

SEC. 11. Section 10204 of the Elections Code is amended to read:

10204. The names of those candidates for the office of presidential elector who have either been nominated by the state conventions of their respective political parties or who have designated pursuant to Article 1 (commencing at Section 6800) of Chapter 3 of Division 5 the names of the candidates for whom they pledged themselves to vote, shall not appear upon the ballot. In lieu thereof, the names of the candidates of their respective parties for President and Vice President of the United States shall be printed together in pairs upon the ballot under the title, "Presidential Electors."

SEC. 12. Section 10206 of the Elections Code is repealed.

SEC. 13. Section 10208 of the Elections Code is repealed.

SEC. 14. Section 10209 of the Elections Code is repealed.

SEC. 15. Section 10210 of the Elections Code is repealed.

SEC. 16. Section 10216 is added to the Elections Code, to read:

10216. Candidates for each office shall be printed on the ballot in accordance with the following rules:

(a) The names of presidential candidates to whom candidates for delegate to the national convention are pledged and the names of chairmen of groups of candidates for delegate expressing no preference shall be arranged on the primary election ballot by the Secretary of State by the names of the candidates in accordance with the randomized alphabet as provided for in Section 10217 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(b) The names of the pairs of candidates for President and Vice President shall be arranged on the general election ballot by the Secretary of State by the names of the candidates for President in accordance with the randomized alphabet as provided for in Section 10217 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the pair appearing first in the last preceding Assembly district shall be placed last, the order of the other pairs remaining unchanged.

(c) In the case of all other offices, the candidates for which are to be voted on throughout the state, the Secretary of State shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 10217 for the First

Assembly District. Thereafter, for each succeeding Assembly district, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(d) If the office is that of Representative in Congress or member of the State Board of Equalization, the Secretary of State shall arrange the names of candidates for the office in accordance with the randomized alphabet as provided for in Section 10217 for that Assembly district which has the lowest number of all the Assembly districts in which candidates are to be voted on. Thereafter, for each succeeding Assembly district in which the candidates are to be voted on, the name appearing first in the last preceding Assembly district shall be placed last, the order of the other names remaining unchanged.

(e) If the office is that of State Senator or Member of the Assembly, the county clerk shall arrange the names of the candidates for the office in accordance with the randomized alphabet as provided for in Section 10217.

(f) If the office is to be voted upon wholly within, but not throughout, one county, as in the case of municipal, district, county supervisor, municipal court, justice court, and county central committee offices, the official responsible for conducting the election shall determine the order of names in accordance with the randomized alphabet as provided for in Section 10217.

(g) If the office is to be voted on throughout a single county and there are not more than four Assembly districts wholly or partly in the county, the county clerk shall determine the order of names in accordance with the randomized alphabet as provided for in Section 10217 for the first supervisorial district. Thereafter, for each succeeding supervisorial district, the name appearing first for each office in the last preceding supervisorial district shall be placed last, the order of the other names remaining unchanged.

If there are five or more Assembly districts wholly or partly in the county, an identical procedure shall be followed except that rotation shall be by Assembly district, commencing with the Assembly district which has the lowest number.

SEC. 17. Section 10217 is added to the Elections Code, to read:

10217. The Secretary of State shall conduct a drawing of the letters of the alphabet, the result of which shall be known as a randomized alphabet. The procedure shall be as follows:

(a) Each letter of the alphabet shall be written on a separate slip of paper each of which shall be folded and inserted into a capsule. Each capsule shall be opaque and of uniform weight, color, size, shape, and texture. The capsules shall be placed in a container which shall be shaken vigorously in order to mix them thoroughly. The container then shall be opened and the capsules removed at random one at a time. As each is removed, it shall be opened and the letter on the slip of paper read aloud and written down. The resulting random order of letters constitutes the randomized alphabet which is to be used in the same manner as the conventional alphabet in

determining the order of all candidates in all elections. For example, if two candidates with the surnames Campbell and Carlson are running for the same office, their order on the ballot will depend on the order in which the letters M and R were drawn in the randomized alphabet drawing.

(b) There shall be six such drawings, three in each even-numbered year and three in each odd-numbered year. Each drawing shall be held at 11 a.m. on the date specified in this subdivision. The results of each drawing shall be mailed immediately to each county clerk or other official responsible for conducting an election to which the drawing is applicable who shall use it in determining the order on the ballot of the names of the candidates for office.

The first such drawing shall take place on the Monday following the first day of January in an even-numbered year and shall apply to the March general law city elections and any other elections held at the same time.

The second shall take place on the third Monday in March of an even-numbered year and shall apply to all candidates on the ballot in the June primary election.

The third shall take place on the third Monday in September of an even-numbered year and shall apply to all candidates on the ballot in the November general election.

In the case of the June primary election and the November general election, the Secretary of State shall certify and transmit to each county clerk the order in which the names of federal and state candidates, with the exception of candidates for State Senate and Assembly, shall appear on the ballot. The clerk shall determine the order on the ballot of all other candidates using the appropriate randomized alphabet for that purpose.

The fourth drawing shall take place on the Monday following the first day of January in an odd-numbered year and shall apply to all candidates on the ballot in the elections held on the first Tuesday after the first Monday in March of that year.

The fifth drawing shall take place on the first Monday in April of the odd-numbered year and shall apply to all candidates on the ballot in elections held on the last Tuesday in May of that year.

The sixth shall take place on the second Monday in September of the odd-numbered year and shall apply to all candidates on the ballot in the November elections conducted under the Uniform District Election Law and any other elections held at the same time.

(c) Each randomized alphabet drawing shall be open to the public. At least 10 days prior to a drawing, the Secretary of State shall notify the news media and other interested parties of the date, time, and place of it. The president of each statewide association of local officials with responsibilities for conducting elections shall be invited by the Secretary of State to attend each drawing or send a representative. The state chairman of each qualified political party shall be invited to attend or send a representative in the case of

drawings held to determine the order of candidates on the June primary election ballot, the November general election ballot, or a special election ballot as provided for in subdivision (d) of this section.

(d) In the case of any special election for State Assembly, State Senate, or Representative in Congress, on the first Monday after the close of filing of nomination papers for the office, the Secretary of State shall conduct a public drawing to produce a randomized alphabet in the same manner as provided for in subdivisions (a) and (c) of this section. The resulting randomized alphabet shall be used for determining the order on the ballot of the candidates in both the primary election for the special election and in the special election.

SEC. 18. Section 10217.5 is added to the Elections Code, to read:

10217.5. In the case of an election of candidates in a special district, school district, charter city (whose charter does not provide to the contrary), or other local government body, occurring on other than one of the six major election dates specified in subdivision (b) of Section 10217, the official responsible for conducting the election shall, at the same time that the election is called, notify the Secretary of State by registered mail of the date of the election, the date of the close of filing, and the last possible date for filing in the event there is an extension of filing due to an incumbent failing to file. The Secretary of State shall conduct a randomized alphabet drawing on the first weekday following the last possible day of filing for such an election according to the provisions of subdivision (a) of Section 10217. If two or more such drawings for local government elections would occur on the same date, the Secretary of State may use a single randomized alphabet drawing for all such elections. The Secretary of State shall communicate the results of the drawing by registered mail to each respective official responsible for conducting the election who shall use it to determine the order on the ballot of all candidates' names. All such drawings shall be open to the public.

SEC. 19. Section 10219.2 of the Elections Code is amended to read:

10219.2. A person who has been appointed to any elected district office, including any school district office, which has become vacant prior to the next succeeding election in which the office is on the ballot, for any reason, shall not use "incumbent," a description of that office, or its title as a ballot designation but may use "appointed incumbent," if he is a candidate for election to the same office in the next succeeding election in which that office is on the ballot. The provisions of this section shall not apply when the person is appointed to the office by the supervising authority as defined in subdivision (d) of Section 23505 and, immediately prior to his taking office pursuant to the appointment, that person was holding that office by virtue of having been elected to it.

SEC. 20. Section 10261 of the Elections Code is amended to read:

10261. The names of the candidates for delegates of any political party shall not appear upon the ballot. In lieu thereof the names of

the persons preferred for President by each group of candidates, or the name of the chairman of each group that has designated no preference, shall be arranged upon the ballot of the party in a column 2½ inches wide.

SEC. 21. Section 10303 of the Elections Code is repealed.

SEC. 22. Section 10305 of the Elections Code is repealed.

SEC. 23. Section 10306 of the Elections Code is repealed.

SEC. 24. Section 10307 of the Elections Code is repealed.

SEC. 25. Section 10308 of the Elections Code is repealed.

SEC. 26. Section 22870 of the Elections Code is amended to read:

22870. All ballots used at a municipal election shall have the names of the candidates printed thereon in a column three inches in width, three-eighths of an inch apart, and having below the printed list the necessary blank space to permit the voter to write in the names of other persons not printed on the ballot. The ballots shall also contain a separate column or columns of sufficient width for statements of all measures submitted to the voters. When there are full terms and short terms to be filled, the term shall be specified

Each group of candidates to be voted on shall be headed by the designation of the office and the words "Vote for one" or "Vote for two," or more, as the case may be, according to the number to be elected to the office.

SEC. 27. Section 23515 of the Elections Code is amended to read:

23515. Only names of persons properly nominated shall be printed on the ballots, but blank spaces shall be left below the printed names of candidates for each office, equal in number to the number of offices to be filled, wherein the voter may write the name of any person for whom he wishes to vote.

SEC. 28. Section 3800 of the Government Code is amended to read:

3800. This division shall become inoperative on May 1, 1975, except that Sections 3704, 3705, 3706, 3709 and 3710 shall remain in effect for a public agency until a Conflict of Interest Code adopted pursuant to Government Code Section 87300 is effective for such agency. This division shall remain inoperative unless Chapter 7 (commencing with Section 87100) of Title 9 of the Government Code is repealed, held invalid by a court of appeal, or otherwise made inoperative. Statements required to be filed in April 1975, by constitutional officers, county supervisors and chief administrative officers of counties, mayors, city council members, and managers and chief administrative officers of general law or charter cities shall include all information reportable under Sections 3700 to 3702, inclusive, since the date of the last statement filed under this division through January 6, 1975. If no previous statement has been filed, the statement shall contain all reportable information for the period April 1, 1974, through January 6, 1975.

SEC. 29. Section 3801 of the Government Code is amended to read:

3801. Members of planning commissions and planning officers of

cities and counties required to file financial disclosure statements pursuant to Sections 3700 to 3702, inclusive, shall continue to file the statements required by Sections 3700 to 3702, inclusive, until such time as a Conflict of Interest Code prepared pursuant to Section 87300 is effective for their agency.

SEC. 30. It is the intent of the Legislature, if A.B. 822 of the 1975–76 Regular Session of the Legislature is chaptered and becomes operative on or before July 1, 1976, that Section 3 and 4 of this act shall become operative; and if A B. 822 is not chaptered or does not become operative on or before July 1, 1976, Sections 3 and 4 of this act shall not become operative.

SEC. 31. It is the intent of the Legislature, if A.B. 1961 of the 1975–76 Regular Session of the Legislature is chaptered and becomes operative on or before January 1, 1976, that Sections 16, 17, and 18 of this act shall become operative, in which case Section 2 and Sections 5 through 15, inclusive, and Sections 19 through 27, inclusive, of this act shall not become operative. Therefore, if A.B. 1961 is not chaptered or does not become operative on or before January 1, 1976, Section 2 and Sections 5 through 15, inclusive, and Sections 19 through 27, inclusive, of this act shall become operative, in which case Sections 16, 17, and 18 of this act shall not become operative.

CHAPTER 1212

An act to amend Sections 11475 1 and 11475.6 of, and to add Chapter 9 (commencing with Section 25550) to Division 18.5 of, the Education Code, relating to community colleges.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 11475.1 of the Education Code is amended to read:

11475.1. For the purposes of this section a short-term class, exclusive of Sections 11251 and 11484, is any class scheduled for less than a full quarter, semester, or other sessions as approved by the Chancellor of the California Community Colleges to meet the requirements of Section 17551.

Notwithstanding Section 11475, units of average daily attendance of students, including adults as defined in Section 5756, enrolled in credit and noncredit short-term classes qualifying for a state apportionment in the 1974–75, 1975–76, 1976–77, and 1977–78 school years shall be computed by dividing actual class hours of attendance by 525. The attendance of adults as defined in Section 5756 shall be kept separately from all other attendance.

This section shall remain in effect only until July 1, 1978, and is

repealed as of that date.

SEC. 2. Section 11475.6 of the Education Code is amended to read:

11475.6. For the experimental 4-1-4 academic calendar year program operated in the Cabrillo Community College District, the units of average daily attendance for graded classes shall be based upon active enrollment on regular census dates as provided for in Section 11476.5 occurring during the two 16-week terms with application of the usual factors and procedures prescribed in Section 11475. No state apportionment shall be calculated for enrollment or attendance during the one-month intersession in the Cabrillo Community College District. The computation of average daily attendance for the summer sessions at Cabrillo Community College District shall be in accordance with Section 11478. In the event the 4-1-4 academic year does not comply with the requirement of 175 days instruction for an academic year as prescribed by Section 17551, such requirement may be waived during the experimental period, provided that the governing board of the Cabrillo Community College District and the Board of Governors of the California Community Colleges cooperate in determining how the district can comply with Section 17551. These exceptions to the computation of units of average daily attendance shall apply only to the Cabrillo Community College District for the 1974–75, 1975–76, 1976–77, and 1977–78 fiscal years.

This section shall only be operative until July 1, 1978, and as of such date is repealed.

SEC. 3. Chapter 9 (commencing with Section 25550) is added to Division 18.5 of the Education Code, to read:

CHAPTER 9. COMMUNITY COLLEGE ACADEMIC CALENDAR AND STUDENT MEASUREMENT

25550. There is a pilot program for more flexible and effective nontraditional calendar and course scheduling in the community colleges.

The pilot program shall be limited to six community college districts, to be selected by the Board of Governors of the California Community Colleges.

The board of governors shall monitor and evaluate the costs and benefits of experimental, nontraditional calendars to be undertaken in the pilot districts and report its findings to the 1977–78 Regular Session of the Legislature. One objective of this chapter is to study use of a full-time equivalent measure of enrollment that produces a count as similar as possible to the previous average daily attendance count, while eliminating factors that theoretically convert enrollment to attendance. Inasmuch as the nationally recognized measure of semester course credit is defined for a term of 16 weeks, a second objective of this chapter is to evaluate a minimum instructional year of 160 days for community colleges similar to that

of other segments of higher education while retaining the 175-day academic year. In addition, under provisions of this chapter, organization of instructional modules are no longer limited to the traditional quarter or semester modes. Flexible calendar scheduling will, among other effects, facilitate articulation of community college students with other segments of higher education, allow programs and courses to be designed on the basis of need and subject content, and provide opportunity to smooth peak student course demand within an educationally and fiscally responsible framework.

This chapter applies only to community college districts included in the pilot program.

In order to carry out the purposes of the pilot program the board of governors may waive the provisions of Sections 5103, 5756, 10953, 11102, 11103, 11104, 11151, 11151.5, 11475, 11475.5, 11476, 11476.5, 11477, 11481, 11485, 11486, 11487, 11501, 17551, 17551.5, 17553, 17601.1, 17611, 17851, 25502.3, 25507, 25511.5, 25515.5, 25518.5, and any other related sections as applied only to pilot districts.

25550.1. Beginning with fiscal year 1976–77, the academic year for community colleges shall be no less than 175 workdays, of which a minimum of 160 days, exclusive of Saturdays and Sundays, shall be devoted to instruction or examination or both in scheduled courses. Specific college calendars shall be determined by the district governing board.

All college personnel under contract for the academic year are to be accountable, as determined by the district, for the 175 workdays, which include, but are not limited to, the following activities:

(a) Course instruction and examination;

(b) Student personnel services;

(c) Learning resource services;

(d) Community and public services;

(e) Related activities, such as student advising, guidance and orientation; staff development and inservice training; course, curriculum, and learning resource development; department and division meetings, conferences and workshops; program development and evaluation; and institutional research; and

(f) The necessary supporting activities for the above.

The governing board of a community college district may provide for community college courses on Saturday or Sunday or both.

These days may be counted toward the 160-day minimum required when, due to unforeseen circumstances, a college is closed by order of the President of the United States or the Governor of the State of California.

Number and length of courses and sessions or terms scheduled during the academic year shall be determined by the governing board of the district.

25550.2. Community colleges shall be permitted to conduct, in addition to courses and sessions or terms scheduled during the academic year, other sessions and courses, graded and ungraded, any time during the fiscal year for any length of time during any day or

days of the week, including Saturdays and Sundays. All such courses shall qualify for state and local fiscal support.

25550.3. The unit of student workload measurement shall be based upon contact hours of enrollment. The unit measure shall be student full-time equivalent contact hours of enrollment and, in graded courses, is derived by dividing the product of the mean average of active enrollment counts at specified census dates and the total contact hour value of each course by an appropriate divisor.

Contact hours of enrollment in ungraded courses (classes for adults) shall be divided by a divisor that produces a comparable unit of student workload measurement.

These divisors shall be determined by the Board of Governors of the California Community Colleges in cooperation with the Department of Finance.

For purposes of any other provision of this code, the unit of student workload measurement as defined under provisions of this section and set forth in Title 5 of the California Administrative Code shall be deemed to be average daily attendance for all community college purposes.

(a) Contact hours of enrollment in graded, term or session-length courses during the academic year shall be based upon two census counts of students enrolled on the days nearest one-fifth and three-fifths of the way through the term or session.

(b) Contact hours of enrollment in graded courses scheduled for longer or shorter periods than regular terms or sessions of the academic year or at other times during the fiscal year shall be based upon two census counts of students enrolled on the course meeting days nearest one-fifth and three-fifths of the way through the course; provided, that the first census would not occur earlier than the second meeting for courses scheduled to meet two or more times and that the second census would not be taken for courses meeting 12 times or less.

For purposes of subdivisions (a) and (b), the drop date for reporting students in active enrollment, as specified by rules and regulations adopted by the Board of Governors of the California Community Colleges, shall be no later than the day prior to the second census date.

(c) Contact hours of enrollment in ungraded courses (classes for adults) shall be based upon a count of students present at each course meeting.

(d) Contact hours of enrollment of adults, as defined in Section 5756, shall be reported separately.

(e) Contact hours of enrollment of all students not residents of a community college district shall be reported separately.

(f) Contact hours of enrollment of all students not residents of California shall be reported separately.

25550.4. One semester credit hour of community college work is approximately 48 hours of lecture, study, recitation, demonstration-discussion, and laboratory work or any combination

thereof, over any period of time.

25550.5. Provisions of this chapter shall be implemented at no gain or loss in district operating revenue per unit of student workload. This may be accomplished without changing base revenue and state aid for individual districts in the year of implementation. To the extent that counts of the new units of student workload differ from average daily attendance only because of new measurement techniques, there may need to be proportionate changes in a district's revenue base per student and in the state foundation programs.

The Board of Governors of the California Community Colleges shall adopt rules and regulations setting forth definitions, procedures, and guidelines to implement this chapter.

25550.6. Notwithstanding any provision of this chapter, state apportionments to community colleges shall continue to be calculated on the basis of a 175-day academic year.

SEC. 4. The Board of Governors of the California Community Colleges shall conduct a study of, and determine necessary foundation and apportionment levels for, financing community colleges based upon the following suggested changes in existing financing procedures:

(a) One foundation level for all community college students, except as provided in subdivision (b), removing current distinctions between defined adults and other than defined adults; however, this foundation level shall not increase total state apportionments to community colleges and shall result in only minimal changes in apportionments to individual districts.

(b) A second foundation level for ungraded courses which are avocational or recreational in nature and not part of an academic, occupational, or vocational degree or certificate program; this foundation level shall be based upon the assumption that state support of such classes shall average approximately 25 percent of the cost of such classes, but that the state shall guarantee that 50 percent of the cost of avocational classes be offset by state and local allocations; local support would average about 25 percent of operating cost and could be higher; generally, student fees would offset one-half the cost of such courses; a portion of the fee-generated revenue shall be budgeted for fee waivers for needy students enrolled in such classes.

The report may also specify other models of financing community colleges. The report shall, additionally, comment upon possible inequities in property tax rates, expenditures per unit of average daily attendance, assessed property value per unit of average daily attendance, and median personal income levels among community college districts.

The board of governors shall report its findings and recommendations to the Governor, the Legislature, and the California Postsecondary Education Commission on or before March 1, 1976.

This section shall remain in effect only until July 1, 1976, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1976 deletes or extends such date.

SEC. 5. All sections of this act, except Section 4, shall become operative on July 1, 1976.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the additional net costs, if any, imposed on local government by this act are insignificant in nature and will not cause any financial burden on local government.

CHAPTER 1213

An act to amend Section 22507.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 22507.5 of the Vehicle Code is amended to read:

22507.5. Notwithstanding the provisions of Section 22507, local authorities may, by ordinance or resolution, prohibit or restrict the parking or standing of vehicles on certain streets or highways, or portions thereof, between the hours of 2 a.m. and 6 a.m., and may, by ordinance or resolution, prohibit or restrict the parking or standing, on any street, or portion thereof, in a residential district, of commercial vehicles having a manufacturer's gross vehicle weight rating of 6,000 pounds or more. No such ordinance or resolution relating to the parking or standing of commercial vehicles in a residential district shall, however, be effective with respect to any commercial vehicle making pickups or deliveries of goods, wares, and merchandise from or to any building or structure located on the restricted streets or highways or for the purpose of delivering materials to be used in the actual and bona fide repair, alteration, remodeling, or construction of any building or structure upon the restricted streets or highways for which a building permit has previously been obtained.

CHAPTER 1214

An act to add Sections 16481 and 20208.5 to, and to add Division 8 (commencing with Section 7600) to Title 1 of, the Government Code, relating to the investment of securities owned by state agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Division 8 (commencing with Section 7600) is added to Title 1 of the Government Code, to read:

DIVISION 8. SECURITIES OWNED BY STATE AGENCIES

CHAPTER 1. INVESTMENT OF SECURITIES OWNED BY STATE AGENCIES

Article 1. General

7600. It is the intent of the Legislature that:

(a) Specified state agencies be authorized to invest marketable securities by entering into security loan agreements;

(b) State agencies charged with such authority exercise prudence in making such agreements;

(c) Sound fiscal management be established with respect to transactions involving security agreements.

7601. As used in this chapter:

(a) "Security loan agreement" means a written contract whereby a legal owner (the lender) agrees to lend specific marketable corporate or government securities for a period not to exceed one year. The lender retains the right to collect from the borrower all dividends, interest, premiums, rights, and any other distributions to which the lender would otherwise have been entitled. The lender waives the right to vote the securities during the term of the loan. The lender may terminate the contract upon not more than five business days' notice as agreed, and the borrower may terminate the contract upon not less than two business days' notice as agreed. The borrower shall provide collateral to the lender in the form of cash, or bonds, other interest-bearing notes and obligations of the United States or federal instrumentalities eligible for investment by a lending state agency.

Such collateral shall be in an amount equal to at least 102 percent of the market value of the loaned securities as agreed. The administrators of the funds involved shall monitor the market value of the loaned securities daily. The loan agreement shall provide for

payment of additional collateral on a daily basis, or at such times as the value of the loaned securities increases, to agreed upon ratios. In no event shall the amount of the collateral be less than the market value of the loaned securities.

(b) "Marketable securities" means securities that are freely traded on recognized exchanges or marketplaces.

Article 2. Security Loans

7602. A state agency which is authorized pursuant to Sections 16481 and 20208.5 of the Government Code may enter into security loan agreements with broker-dealers and with California or national banks for the purpose of prudently supplementing the income normally received from investments.

7603. All loans of securities shall be made pursuant to one of the standardized security loan agreement forms, as developed jointly by the administrators of the State Pooled Investment Account (as authorized by Section 16481 of the Government Code) and the State Public Employees Retirement System (as authorized by Section 20209 of the Government Code) and as approved by the Commissioner of Corporations.

7604. In the event of a loss in the reacquisition of loaned securities, the responsible state agency shall make a written report of such loss to the Legislature and the Auditor General as soon as possible, but not later than 30 days after the incurrence of such loss.

7605. Each state agency which enters into security loan agreements shall (a) maintain detailed records of all security loans, (b) develop controls and reports to monitor the conduct of the transactions, and (c) publicize the net results of the security loan transaction separate from the results of other investment activities.

SEC. 2. Section 16481 is added to the Government Code, to read:

16481. Notwithstanding any other provision of the law, the State Treasurer may enter into security loan agreements pursuant to the provisions of Division 8 (commencing with Section 7600) of Title 1 of the Government Code with respect to securities which he is authorized by law to invest in.

SEC. 3. Section 20208.5 is added to the Government Code, to read:

20208.5. Notwithstanding any other provision of the law, the board may enter into security loan agreements pursuant to the provisions of Division 8 (commencing with Section 7600) of Title 1 of the Government Code with respect to securities which the board is authorized by law to invest in.

SEC. 4. The Auditor General shall audit the results of all security loan agreements entered into by state agencies under this chapter at the end of three years of operation and shall submit a report to the Legislature with recommendations on or before March 1, 1979.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

The existence of a recessionary economy, a dynamic security market, high short-term interest rates, and the need for additional income through efficient investment of existing public assets make it essential that this act go into immediate effect.

CHAPTER 1215

An act to amend Sections 1318 and 1437 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 30, 1975. Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 1318 of the Health and Safety Code is amended to read:

1318. The director shall require as a condition precedent to the issuance, or renewal, of any license for a health facility, if the licensee handles or will handle any money of patients within the health facility, that the applicant for the license or the renewal of the license file or have on file with the state department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the state department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars ($1,000), running to the State of California and conditioned upon his faithful and honest handling of the money of patients within the health facility.

Every person injured as a result of any improper or unlawful handling of the money of a patient of a health facility may bring an action in a proper court on the bond required to be posted by the licensee pursuant to this section for the amount of damage he suffered as a result thereof to the extent covered by the bond.

Whenever the state department determines that the amount of any bond which is filed pursuant to this section is insufficient to adequately protect the money of patients which is being handled, or whenever the amount of any such bond is impaired by any recovery against the bond, the state department may require the licensee to file an additional bond in such amount as necessary to adequately protect the money of patients which is being handled.

The failure of any licensee under this section to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles any patient's trust funds shall constitute cause for the revocation of the license.

The provisions of this section shall not apply if the licensee handles less than twenty-five dollars ($25) per patient and less than five

hundred dollars ($500) for all patients in any month.

The director may exempt licensed health facilities of the types specified in subdivisions (a), (b), and (e) of Section 1250 from the requirements of this section. However, the exemption from the bond purchase requirements of this section shall not affect the financial liability of such health facilities.

SEC. 2. Section 1437 of the Health and Safety Code is amended to read:

1437. If a skilled nursing facility or intermediate care facility has not been previously licensed pursuant to Chapter 2 (commencing with Section 1250), the state department may only provisionally license such facility as provided in this section A provisional license to operate a skilled nursing facility or intermediate care facility shall terminate six months from the date of issuance. Within 30 days of the termination of a provisional license, the state department shall give such facility a full and complete inspection, and, if the facility meets all applicable requirements for licensure, a regular license shall be issued. If the skilled nursing facility or intermediate care facility does not meet the requirements for licensure but has made substantial progress towards meeting such requirements, as determined by the state department, the initial provisional license shall be renewed for six months. If the state department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if the state department determines upon its inspection made within 30 days of the termination of a renewed provisional license that there is lack of full compliance with such requirements, no further license shall be issued.

If an applicant for a provisional license to operate a skilled nursing facility or intermediate care facility has been denied provisional licensing by the state department, he may contest such denial by filing a statement of issues, as provided in Section 11504 of the Government Code, and the proceedings to review such denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

General acute care hospitals, or other facilities, except skilled nursing and intermediate care facilities, licensed under Chapter 2 (commencing with Section 1250), having a skilled nursing or intermediate care facility unit as a distinct part of the hospital or licensed facility shall be exempt from the requirements of this section.

CHAPTER 1216

An act to amend Sections 13405, 13410, 13413, 13485, and 13486 of, to repeal Section 13487 of, and to add Section 13487 to, the Education Code, relating to public schools, and making an appropriation therefor.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 13405 of the Education Code is amended to read:

13405. The notice shall not be given between May 15th and September 15th in any year. It shall be in writing and be served upon the employee personally or by United States registered mail addressed to him at his last known address. A copy of the charges filed, containing the information required by Section 11503 of the Government Code, together with a copy of the provisions of this article, shall be attached to the notice.

SEC. 2. Section 13410 of the Education Code is amended to read:

13410 The notice of suspension and intention to dismiss, shall be in writing and be served upon the employee personally or by United States registered mail addressed to the employee at his last known address. A copy of the charges filed, containing the information required by Section 11503 of the Government Code, together with a copy of the provisions of this article, shall be attached to the notice If the employee does not demand a hearing within the 30-day period, he may be dismissed upon the expiration of 30 days after service of the notice

SEC. 3. Section 13413 of the Education Code is amended to read:

13413. (a) In the event a hearing is requested by the employee, the hearing shall be commenced within 60 days from the date of the employee's demand for a hearing. The hearing shall be initiated, conducted, and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, provided, however, that the hearing date shall be established after consultation with the employee and the governing board, or their representatives, and the Commission on Professional Competence shall have all the power granted to an agency therein, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. In all cases, discovery shall be completed prior to seven calendar days before the date upon which the hearing commences. If any continuance is granted pursuant to Section 11524 of the Government Code, the time limitation for commencement of the hearing as provided in this

subdivision shall be extended for a period of time equal to such continuance; provided, however, that such extension shall not include that period of time attributable to an unlawful refusal by either party to allow the discovery provided for in this section.

If the right of discovery granted under the preceding paragraph is denied by either the employee or the governing board, all the remedies in Section 2034 of the Code of Civil Procedure shall be available to the party seeking discovery and the court of proper jurisdiction, to entertain his motion, shall be the superior court of the county in which the hearing will be held.

The time periods in this section and of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall not be applied so as to deny discovery in a hearing conducted pursuant to this section.

The superior court of the county in which the hearing will be held may, upon motion of the party seeking discovery, suspend the hearing so as to comply with the requirement of the preceding paragraph.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

(b) The hearing provided for in this section shall be conducted by a Commission on Professional Competence. One member of the commission shall be selected by the employee, one member shall be selected by the governing board, and one member shall be a hearing officer of the State Office of Administrative Procedure who shall be chairman and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing. If either the governing board or the employee for any reason fails to select a commission member at least seven calendar days prior to the date of the hearing, such failure shall constitute a waiver of the right to selection, and the county board of education or its specific designee shall immediately make the selection. When the county board of education is also the governing board of the school district or has by statute been granted the powers of a governing board, the selection shall be made by the Superintendent of Public Instruction, who shall be reimbursed by the school district for all costs incident to the selection.

The member selected by the governing board and the member selected by the employee shall not be related to the employee and shall not be employees of the district initiating the dismissal and shall

hold a currently valid credential and have at least five years' experience within the past 10 years in the discipline of the employee.

(c) The decision of the Commission on Professional Competence shall be made by a majority vote and the commission shall prepare a written decision containing findings of fact, determinations of issues and a disposition either:

(1) That the employee should be dismissed.

(2) That the employee should not be dismissed.

The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board.

The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section, as may be necessary to effectuate this section.

The governing board and the employee shall have the right to be represented by counsel.

(d) (1) If the member selected by the governing board or the member selected by the employee is employed by any school district in California, such member shall, during any service on a Commission on Professional Competence, continue to receive salary, fringe benefits, accumulated sick leave, and other leaves and benefits from the district in which the member is employed, but shall receive no additional compensation or honorariums for service on the commission.

(2) If service on a Commission on Professional Competence occurs during summer recess or vacation periods, the member shall receive compensation proportionate to that received during the current or immediately preceding contract period from the member's employing district.

(e) If the governing board orders the dismissal of the employee, the governing board and the employee shall share equally the expenses of the hearing, including the cost of the hearing officer; and the state shall pay any costs incurred under subdivision (d) (2) above, and the reasonable expenses, as determined by the hearing officer, of the member selected by the governing board and the member selected by the employee, and the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee. The State Controller shall pay all claims submitted pursuant to this paragraph from the General Fund, and may prescribe reasonable rules, regulations and forms for the submission of such claims. The employee and the governing board shall pay their own attorney fees.

If the governing board orders that the employee not be dismissed, the governing board shall pay all expenses of the hearing, including the cost of the hearing officer, and any costs incurred under subdivision (d) (2) above, and the reasonable expenses, as determined by the hearing officer, of the member selected by the governing board and the member selected by the employee, and the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee,

and reasonable attorney fees incurred by the employee.

SEC. 4. Section 13485 of the Education Code is amended to read:

13485. It is the intent of the Legislature that governing boards establish a uniform system of evaluation and assessment of the performance of all certificated personnel within each school district of the state, including schools conducted or maintained by county superintendents of education. The system shall involve the development and adoption by each school district of objective evaluation and assessment guidelines which may, at the discretion of the governing board, be uniform throughout the district or, for compelling reasons, be individually developed for territories or schools within the district, provided that all certificated personnel of the district shall be subject to a system of evaluation and assessment adopted pursuant to this article.

This article does not apply to certificated personnel who are employed on an hourly basis in adult education classes.

SEC. 5. Section 13486 of the Education Code is amended to read:

13486. In the development and adoption of guidelines and procedures pursuant to this article, the governing board shall avail itself of the advice of the certificated instructional personnel in the district's organization of certificated personnel; provided, however, that the development and adoption of guidelines pursuant to this article shall also be subject to the provisions of Article 5 (commencing with Section 13080) of Chapter 1 of this division.

SEC. 6. Section 13487 of the Education Code is repealed.

SEC. 7. Section 13487 is added to the Education Code, to read:

13487. (a) The governing board of each school district shall establish standards of expected student achievement at each grade level in each area of study.

(b) The governing board of each school district shall evaluate and assess certificated employee competency as it reasonably relates to (1) the progress of students toward the established standards, (2) the performance of those noninstructional duties and responsibilities, including supervisory and advisory duties, as may be prescribed by the board, and (3) the establishment and maintenance of a suitable learning environment within the scope of the employee's responsibilities.

(c) The governing board of each school district shall establish and define job responsibilities for those certificated noninstructional personnel, including, but not limited to, supervisory and administrative personnel, whose responsibilities cannot be evaluated appropriately under the provisions of subdivision (b), and shall evaluate and assess the competency of such noninstructional certificated employees as it reasonably relates to the fulfillment of those responsibilities.

(d) The evaluation and assessment of certificated employee competence pursuant to this section shall not include the use of publishers' norms established by standardized tests.

(e) Nothing in this section shall be construed as in any way

limiting the authority of school district governing boards to develop and adopt additional evaluation and assessment guidelines or criteria.

SEC. 8. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement pursuant to subdivision (e) of Section 13413 of the Education Code.

SEC. 9. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act, except as provided in Section 8 of this act, because any costs incurred by a local agency pursuant to this act are the result of an action initiated by the local agency.

CHAPTER 1217

An act to add Article 2 4 (commencing with Section 283) to Chapter 2 of Division 1 of the Health and Safety Code, relating to pregnant women, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Article 2.4 (commencing with Section 283) is added to Chapter 2 of Division 1 of the Health and Safety Code, to read:

Article 2.4. High-risk Pregnancy

283. It is the intent of the Legislature in enacting this article to provide, to the extent practicable, pilot programs designed to develop, test, and expand services to pregnant women who are considered highly likely to personally suffer morbidity or mortality from their pregnancy or deliver handicapped children.

283.2. "High-risk pregnant woman," as used in this article, means any pregnant woman determined to be at high risk of delivering a defective or handicapped, or stillborn infant due to premature labor.

283.4. The State Department of Health may establish one or more pilot programs not to exceed three years in duration, to provide personal health care services in the perinatal period to high-risk pregnant women.

283.6. With respect to such pilot programs, the state department shall do the following:

(a) Establish guidelines for the treatment and list minimum services.

(b) Develop applications for grants or contracts to provide funding.

(c) Designate approved applicants as providers of services to high-risk pregnant women.

(d) Provide surveillance and supervision of the pilot projects.

(e) Encourage development of new forms of treatment.

(f) Seek federal funds, as well as funds from other public or private organizations or agencies, to carry out the provisions of this article.

(g) Provide appropriate staff to carry out the provisions of this article.

(h) Set standards for financial eligibility, including a patient repayment schedule based on reasonable rates, subject to the maximum utilization of patient third-party reimbursement sources

283.8. In order to assure that maximum utilization of patient third-party reimbursement sources, the state department shall develop a schedule of reimbursement at reasonable rates for all services rendered pursuant to this article. Inquiry shall be made of all recipients of services under this article as to their entitlement for third-party reimbursement for medical services. Where such entitlement exists, it shall be billed.

284. The Director of Health shall set priorities and establish standards for services for high-risk pregnant women and perinatal care centers funded under this article, so that the aggregate cost for each fiscal year of the pilot programs does not exceed the total of amounts appropriated by the state for such purpose for the fiscal year and any federal or other funds available for such purpose.

284.2. The state department shall submit an interim report of its findings derived from the pilot programs to the Legislature and to the Secretary of the Health and Welfare Agency on or before June 30, 1977, and shall submit a final report on or before June 30, 1979. The reports shall consider the effectiveness of the pilot programs in reducing the incidence and severity of defects or handicaps of children born to high-risk pregnant women and in reducing the infant and mother morbidity rate for such women and their infants, and shall consider the related economic impact of each such pilot program

284.4. Except with respect to the reporting duties specified in Section 284.2, this article shall remain in effect only until January 1, 1979, and shall have no force or effect on or after such date, unless a later enacted statute, which is chaptered before January 1, 1979, deletes or extends such date.

SEC. 2. The sum of six million dollars ($6,000,000) is hereby appropriated from the General Fund to the Department of Health for the purposes of Article 2.4 (commencing with Section 283) of Chapter 2 of Division 1 of the Health and Safety Code, as added by this act, for expenditure as follows:

(a) One million dollars ($1,000,000) during the 1975–76 fiscal year.

(b) Two million dollars ($2,000,000) during the 1976–77 fiscal year.

(c) Two million dollars ($2,000,000) during the 1977–78 fiscal year.

(d) One million dollars ($1,000,000) during the 1978–79 fiscal year.

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

In order that high-risk pregnant women may receive necessary health services, it is necessary that this act take immediate effect.

CHAPTER 1218

An act to add Sections 23562 and 24216 to the Education Code, relating to state employees.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 23562 is added to the Education Code, to read:

23562. The minimum and maximum salary limits for laborers, workmen, and mechanics employed on an hourly or per diem basis need not be uniform throughout the state, but the regents shall ascertain, as to each such position, the general prevailing rate of such wages in the various localities of the state.

In fixing such minimum and maximun salary limits within the various localities of the state, the regents shall take into account the prevailing rates of wages in the localities in which the employee is to work and other relevant factors, and shall not fix the minimum salary limits below the general prevailing rate so ascertained for the various localities.

SEC. 2. Section 24216 is added to the Education Code, to read:

24216. The minimum and maximum salary limits for laborers, workmen, and mechanics employed on an hourly or per diem basis need not be uniform throughout the state, but the trustees shall ascertain, as to each such position, the general prevailing rate of such wages in the various localities of the state.

In fixing such minimum and maximum salary limits within the various localities of the state, the trustees shall take into account the prevailing rates of wages in the localities in which the employee is to work and other relevant factors, and shall not fix the minimum salary limits below the general prevailing rate so ascertained for the various localities.

SEC. 3. The Legislature finds and declares that the salary of state employees who are laborers, workmen, and mechanics and who are employed on an hourly or daily basis is a matter of statewide concern.

Section 18853 of the Government Code currently requires the

State Personnel Board to fix minimum salary limits for laborers, workmen, and mechanics employed by the hour or day, which limits are not to fall below the prevailing rate paid in the locality in which the work is to be performed.

This act will establish the same principle for employees of the University of California and the California State University and Colleges. It is thus the intent of the Legislature in enacting this act to establish a comprehensive statewide scheme applicable to all state employees who are laborers, workmen, or mechanics paid on an hourly or daily basis.

CHAPTER 1219

An act to amend Section 8901 of the Government Code, relating to compensation of legislators.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 8901 of the Government Code is amended to read:

8901. Commencing at noon on January 2, 1967, each Member of the Legislature shall receive as compensation for his services sixteen thousand dollars ($16,000) per year, during the term for which he was elected, payable in equal monthly amounts.

Commencing at noon on January 4, 1971, the annual compensation provided by this section shall be increased to nineteen thousand two hundred dollars ($19,200).

Commencing at noon on December 2, 1974, the annual compensation provided by this section shall be increased to twenty-one thousand one hundred twenty dollars ($21,120).

Commencing at noon on December 6, 1976, the annual compensation provided by this section shall be increased to twenty-three thousand two hundred thirty-two dollars ($23,232).

CHAPTER 1220

An act to amend Sections 4152, 11515, and 11519 of, to add Section 4465 to, and to repeal Section 4458.5 of, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 4152 of the Vehicle Code is amended to read:

4152. (a) The department may accept an application for registration of a vehicle which is not within this state, but which is to be registered to a resident of this state, at the time all documents and fees, as determined by the department in accordance with the provisions of this division, are submitted to the department.

(b) Any fees submitted pursuant to subdivision (a) shall not be subject to refund based upon the fact that the vehicle has not been and is not within this state.

SEC. 2. Section 4458.5 of the Vehicle Code is repealed.

SEC. 3. Section 4465 is added to the Vehicle Code, to read:

4465. A legal owner of record of a vehicle may request, and the department shall furnish, information regarding the current registration status of the vehicle, including the license plate number and address of the registered owner of the vehicle. The department may charge a fee to pay the cost of furnishing this information.

SEC. 4. Section 11515 of the Vehicle Code is amended to read:

11515. (a) Whenever a vehicle subject to registration is sold as salvage as a result of a total loss insurance settlement, the insurance company or its authorized agent shall, within 10 days from settlement of the loss with its insured, forward the endorsed certificate of ownership or other evidence of title to the department at its headquarters office.

(b) Upon sale of the salvage vehicle the insurance company or its authorized representative shall issue a bill of sale to the purchaser within 10 days after receipt of payment in full for the salvage on a form to be prescribed and supplied by the department. The department shall accept such bill of sale in lieu of the certificate of ownership or other evidence of title for purposes mentioned in Division 3 (commencing with Section 4000) when accompanied by an appropriate application or other documents and fees as therein required.

(c) When the salvage vehicle is rebuilt and to be restored to operation, the vehicle shall not be licensed for operation or the ownership thereof transferred until there is submitted to the department with the prescribed bill of sale an appropriate application, official brake and light adjustment certificates issued by an inspection station licensed by the Department of Consumer Affairs, and any other documents and fees required.

(d) When a total loss insurance settlement between the insurance company and its insured results in the retention of the salvage vehicle by the insured, the insurance company, or its authorized agent shall within 10 days from the date of settlement notify the department of such retention by its insured upon a form to be prescribed and supplied by the department.

SEC. 5. Section 11519 of the Vehicle Code is amended to read:

11519. No vehicle which has been reported dismantled may be subsequently registered until there is submitted to the department

with the prescribed bill of sale an appropriate application, official lamp and brake adjustment certificates issued by an official lamp and brake adjusting station licensed by the Department of Consumer Affairs, other documents and fees required, and, with respect to any motor vehicle subject to Chapter 4 (commencing with Section 39080) of Part 1 of Division 26 of the Health and Safety Code, a valid certificate of compliance from a licensed motor vehicle pollution control device installation and inspection station indicating that such vehicle is properly equipped with a motor vehicle pollution control device or devices which are in proper operating condition and which are in compliance with the provisions of Chapter 4 (commencing with Section 39080) of Part 1 of Division 26 of the Health and Safety Code.

CHAPTER 1221

An act to add Section 99233.6 to the Public Utilities Code, relating to transit.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 99233.6 is added to the Public Utilities Code, to read:

99233.6. (a) The Counties of San Bernardino, Riverside, and Los Angeles may enter into a joint powers agreement pursuant to Article 1 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code, and the joint powers entity created pursuant to such agreement shall, in accordance with Section 403 of the Rail Passenger Service Act of 1970 (45 U.S.C. 563), request the National Railroad Passenger Corporation to institute up to two additional trains a day in each direction between Los Angeles and San Bernardino to supplement the present level of service. The joint powers entity may request institution of more than two additional trains a day in each direction between Los Angeles and San Bernardino. Contributions shall be made from the fund of each of the three counties, as agreed by them, to the joint powers entity, as may be required by the National Railroad Passenger Corporation to meet a reasonable portion of any losses associated with such service. The joint powers entity may request that the additional trains shall be operated, to the extent practicable, during periods of peak traffic.

(b) Notwithstanding subdivision (e) of Section 99233, the transportation planning agency shall make the required allocations to the counties for purposes of subdivision (a) of this section after allocations are made pursuant to subdivisions (a), (b), and (c) of Section 99233.

(c) The capital expenditures requirement of Section 99267 shall not apply to the contributions made to the joint powers entity pursuant to subdivision (a).

(d) If the funds available under this chapter are insufficient for purposes of subdivision (a), the board of supervisors of any one of the three counties may make contributions to the joint powers entity from any funds available to it.

CHAPTER 1222

An act to amend Sections 11120 and 11140 of, and to amend the heading of Article 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part 4 of, and to add Section 11105 to, to repeal Section 11105 of, and to add Article 6 (commencing with Section 13300) to Title 3 of Part 4 of, the Penal Code, relating to criminal records.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 11105 of the Penal Code is repealed.

SEC. 2. Section 11105 is added to the Penal Code, to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(i) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(ii) "State summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (b) of Section 830.2, subdivisions (a), (b), and

(k) of Section 830.3, subdivisions (a), (b), and (c), of Section 830.5, and Section 830.5a.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a Certificate of Rehabilitation and pardon pursuant to Section 4852.08 of the Penal Code.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120), Chapter 1, Title 1 of Part 4 of the Penal Code.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(c) The Attorney General may furnish state summary criminal history information upon a showing of a compelling need to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public

Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the Attorney General supplies such data, he shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished pursuant to this section, the Department of Justice may charge the person or entity making the request a fee which it determines to be sufficient to reimburse the department for the cost of furnishing such information. Any state agency required to pay a fee to the department for information received under this section may charge the applicant a fee sufficient to reimburse the agency for such expense. All moneys received by the department pursuant to this section, Section 12054 of the Penal Code, and Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to such sections when appropriated by the Legislature therefor.

(f) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

SEC. 3. Section 11120 of the Penal Code is amended to read:

11120. As used in this article, "record" with respect to any person means the state summary criminal history information as defined in subdivision (a) of Section 11105, maintained under such person's name by the Department of Justice.

SEC. 4. The heading of Article 6 (commencing with Section 11140), Chapter 1, of Title 1 of Part 4 of the Penal Code, is amended to read:

Article 6. Unlawful Furnishing of State Summary Criminal History Information

SEC. 5. Section 11140 of the Penal Code is amended to read:

11140. As used in this article:

(a) "Record" means the state summary criminal history information as defined in subdivision (a) of Section 11105, or a copy thereof, maintained under a person's name by the Department of Justice.

(b) "A person authorized by law to receive a record" means any person or public agency authorized by a court, statute, or decisional law to receive a record.

SEC. 6. Article 6 (commencing with Section 13300) is added to Title 3 of Part 4 of the Penal Code, to read:

Article 6. Local Summary Criminal History Information

13300. (a) As used in this section:

(1) "Local summary criminal history information" means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100), Title 3 of Part 4 of the Penal Code pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person.

(2) "Local summary criminal history information" does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the local agency.

(3) "Local agency" means a local criminal justice agency.

(b) A local agency shall furnish local summary criminal history information to any of the following, when needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) The courts of the state.

(2) Peace officers of the state as defined in Section 830.1, subdivisions (a) and (b) of Section 830.2, subdivisions (a), (b), and (k) of Section 830.3, subdivisions (a), (b), and (c) of Section 830.5, and Section 830.5a.

(3) District attorneys of the state.

(4) Prosecuting city attorneys of any city within the state.

(5) Probation officers of the state.

(6) Parole officers of the state.

(7) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.

(8) A public defender or attorney of record when representing a person in a criminal case and when authorized access by statutory or decisional law.

(9) Any agency, officer, or official of the state when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(10) Any city or county, or city and county, or district, or any officer, or official thereof when access is needed in order to assist such agency, officer, or official in fulfilling employment, certification, or licensing duties, and when such access is specifically authorized by the city council, board of supervisors or governing board of the city, county, or district when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(11) The subject of the local summary criminal history information.

(12) Any person or entity when access is expressly authorized by statute when such criminal history information is required to implement a statute, a regulation, or an ordinance that expressly refers to specific criminal conduct applicable to the subject person of the summary criminal history information, and contains requirements or exclusions, or both, expressly based upon such specified criminal conduct.

(c) The local agency may furnish local summary criminal history

information, upon a showing of a compelling need, to any of the following, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any entity, in fulfilling employment, certification, or licensing duties, the provisions of Chapter 1321 of the Statutes of 1974 and of Section 432.7 of the Labor Code shall apply:

(1) Any public utility as defined in Section 216 of the Public Utilities Code which operates a nuclear energy facility when access is needed in order to assist in employing persons to work at such facility, provided that, if the local agency supplies such data, it shall furnish a copy of such data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To a peace officer of another country.

(4) To public officers (other than peace officers) of the United States, other states, or possessions or territories of the United States, provided that access to records similar to summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States when such information is needed for the performance of their official duties.

(5) To any person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the local summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(6) The courts of the United States, other states or territories or possessions of the United States.

(7) Peace officers of the United States, other states, or territories or possessions of the United States.

(8) To any individual who is the subject of the record requested when needed in conjunction with an application to enter the United States or any foreign nation.

(d) Whenever an authorized request for local summary criminal history information pertains to a person whose fingerprints are on file with the local agency and the local agency has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying such request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever local summary criminal history information furnished pursuant to this section is to be used for employment, licensing, or certification purposes, the local agency shall charge the person or entity making the request a fee which it determines to be sufficient to reimburse the local agency for the cost of furnishing such information, provided that no fee shall be charged to any public law enforcement agency for summary criminal history information furnished to assist it in employing, licensing, or certifying a person who is applying for employment with the agency as a peace officer,

or criminal investigator. Any state agency required to pay a fee to the local agency for information received under this section may charge the applicant a fee sufficient to reimburse the agency for such expense.

(f) Whenever there is a conflict, the processing of criminal fingerprints shall take priority over the processing of applicant fingerprints.

(g) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

13301. As used in this article

(a) "Record" means the master local summary criminal history information as defined in subdivision (a) of Section 13300, or a copy thereof.

(b) "A person authorized by law to receive a record" means any person or public agency authorized by a court, statute, or decisional law to receive a record.

13302. Any employee of the local criminal justice agency who knowingly furnishes a record or information obtained from a record to a person who is not authorized by law to receive the record or information is guilty of a misdemeanor.

13303. Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person who is not authorized by law to receive the record or information is guilty of a misdemeanor.

13304. Any person, except those specifically referred to in Section 1070 of the Evidence Code, who, knowing he is not authorized by law to receive a record or information obtained from a record, knowingly buys, receives, or possesses the record or information is guilty of a misdemeanor.

13305. (a) It is not a violation of this article to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(b) It is not a violation of this article to disseminate information obtained from a record for the purpose of assisting in the apprehension of a person wanted in connection with the commission of a crime.

(c) It is not a violation of this article to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record when the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

SEC. 7. Section 6 of this act shall become operative on July 1, 1978.

SEC. 8. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local government entities which, in the aggregate, do not result in significant identifiable changes.

CHAPTER 1223

An act to amend Sections 41550, 41806.5, 42062, 42064, and 42065 of, and to repeal Sections 42025, 42026, and 42070 of, the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 1975. Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 41550 of the Health and Safety Code, as added by Chapter 1 of the Statutes of 1975 (First Extraordinary Session), is amended to read:

41550. This chapter empowers the agency to designate participating concentrated rehabilitation areas and participating mortgage funds assistance areas and to enter into agreements with local public entities for systematic code enforcement. It does not limit agency powers to provide construction loans and mortgage loans involving the rehabilitation of housing developments as provided in Chapter 5 (commencing with Section 41450) of this part, nor does it prevent loans for new construction pursuant to Chapter 5 (commencing with Section 41450) in areas where financing is or may be provided pursuant to this chapter.

SEC. 2. Section 41806.5 of the Health and Safety Code, as added by Chapter 1 of the Statutes of 1975 (First Extraordinary Session), is amended to read:

41806.5. (a) Within 120 days after the agency sells general obligation bonds pursuant to this part, there shall be transferred from the proceeds of such bonds to the Housing Rehabilitation Insurance Fund created by Chapter 2 of the Statutes of 1975 (First Extraordinary Session) an amount which, as of the date of such transfer, is equal to that amount of money deposited, and required to be maintained, in the loan insurance reserve account or accounts of the Housing Rehabilitation Insurance Fund for the purpose of securing commitments and contracts of insurance for loans made or assisted pursuant to Part 3 (commencing with Section 41300) of this division.

(b) In addition to the amounts transferred pursuant to subdivision

(a), the agency may, subject to a review by the agency of the program needs and the economic viability of the program of loan insurance established pursuant to Part 5 (commencing with Section 42000), authorize the transfer from the proceeds of the general obligation bonds sold pursuant to this part to the Housing Rehabilitation Insurance Fund not more than fifty million dollars ($50,000,000) for carrying out the purposes of such part. Subject to such maximum limitation, the amount transferred by the agency pursuant to this subdivision shall not be less than an amount equal to the amount of money which is required to be deposited and maintained in the loan insurance reserve account or accounts of the Housing Rehabilitation Insurance Fund for the purpose of securing such commitments and contracts of loan insurance for loans made or assisted pursuant to Part 3 (commencing with Section 41300) of this division, as may be made after the date of the transfer required by subdivision (a).

(c) For general obligation bond funds transferred to the Housing Rehabilitation Insurance Fund pursuant to this section, the amounts necessary for the payment of principal, interest, and sinking fund payments on such bonds shall be transferred from the Housing Rehabilitation Insurance Fund to the General Obligation Bond Account to the extent reserves and working capital of the Housing Rehabilitation Insurance Fund would not be impaired.

SEC. 3. Section 42025 of the Health and Safety Code, as added by Chapter 2 of the Statutes of 1975 (First Extraordinary Session), is repealed.

SEC. 4. Section 42026 of the Health and Safety Code, as added by Chapter 2 of the Statutes of 1975 (First Extraordinary Session), is repealed.

SEC. 5. Section 42062 of the Health and Safety Code, as added by Chapter 2 of the Statutes of 1975 (First Extraordinary Session) is amended to read:

42062. Loans for the rehabilitation, refinancing, or acquisition of residential structures located in eligible areas designated pursuant to Chapter 3 (commencing with Section 42045) of this part may be insured by the agency, subject to the following requirements:

(a) Except for loans insured pursuant to subdivision (d), at least 20 percent of the amount of any such loan shall be used for repairs or improvements which are required by rehabilitation standards.

(b) The loan may include an additional amount to be used for general property improvements, which shall not exceed 20 percent of the amount used for rehabilitation required by rehabilitation standards; or, in the cases of owner-occupied residential structures of not more than four dwelling units, amounts loaned for general property improvements shall not exceed 40 percent of the amount loaned for required rehabilitation.

(c) Subject to the limitation prescribed by subdivision (a), the proceeds of the loan may be used for refinancing of existing indebtedness secured by property to be rehabilitated. Loans for

refinancing may be insured only if refinancing is necessary to permit a borrower to afford the cost of rehabilitation or to minimize rent increases for occupants of the residential structure whose rents would otherwise exceed affordable rents due to the expense of rehabilitation.

(d) The proceeds of the loan may be used for financing acquisition and rehabilitation of a residential structure, or acquisition of a rehabilitated structure, or acquisition of a residential structure which the borrower has agreed to conform to rehabilitation standards within a time and in a manner specified by regulations of the agency. No borrower shall be eligible for insurance of a loan or loans for the acquisition of more than one residential structure with respect to any such area, unless the borrower is a qualified rehabilitator.

SEC. 6. Section 42064 of the Health and Safety Code, as added by Chapter 2 of the Statutes of 1975 (First Extraordinary Session) is amended to read:

42064. Loans insured pursuant to this part shall meet the following requirements:

(a) The loans shall be made for a period acceptable to the agency, not to exceed 40 years or four-fifths of the remaining economic life of the structure as determined by the agency in accordance with its regulations, whichever is less.

(b) The loans shall be subject to maximum loan amounts for each category of loan authorized to be insured under this part, as established by regulations of the agency.

(c) The loans shall be secured by mortgages.

(d) The agency shall establish loan-to-value limitations for each category of loan and may set forth limitations on the further encumbrance of structures and other real property securing loans, but only to the extent necessary to prevent unreasonable impairment of the agency's security. In no case involving refinancing or purchase shall the loan have a principal obligation in an amount exceeding the sum of the estimated cost of rehabilitation, if any, and either the amount required to refinance existing indebtedness secured by the property or, in the case of a sale, the amount of the purchase price and settlement and closing costs incurred in connection with the purchases.

(e) Loans for the rehabilitation of residential structures shall have a principal obligation not exceeding an amount which, when added to any outstanding indebtedness constituting a lien upon the property securing the loan, creates a total outstanding indebtedness which could be reasonably secured by a first mortgage on the property pursuant to subdivision (d), and as set forth by regulations of the agency.

(f) With respect to any loan for the rehabilitation of a residential structure, the agency shall determine that such repair and improvement is economically feasible. With respect to the rehabilitation of a mixed-use residential and commercial structure or of a commercial structure, the agency shall determine that there will

be a demand for commercial occupancy of the residential structure after rehabilitation. In making such determination, the level of rent necessitated by repayment of the loan shall be considered.

(g) For the purpose of increasing the efficiency and minimizing the cost of the loan insurance program, the agency may insure or issue commitments to insure loans, upon the certification of an officer of an approved lending institution that the proposed rehabilitation conforms to requirements specified by regulations of the agency regarding economic feasibility and commercial demand.

(h) With respect to any loan for rehabilitation or rehabilitation in combination with refinancing or purchase, the loan agreement shall provide that all funds loaned for repairs and improvements shall be paid after completion or according to a progress payment schedule to the owner and contractor or other provider of goods or services jointly at such times as payment becomes due, and provided the work or portion of the work for which payment is tendered is certified, as provided by regulation of the agency, to be in compliance with contract specifications and applicable state or local housing or building standards. The agency shall approve the contractor or contractors, the contract to provide rehabilitation construction, and the contract specifications prior to committing any funds of an insured loan for rehabilitation.

(i) The agency shall require that borrowers contract during the term of the loan not to raise residential rentals over an amount which the agency by regulation establishes will yield a fair rate of return and will allow for increases reasonably necessary to provide and continue proper maintenance of the property; except that residential structures with more than one but less than five dwelling units which are to be occupied by the owner shall be regulated as to rentals in a manner consistent with paragraph (8) of subdivision (b) of Section 42047.

(j) Relocation payments shall be made to persons and families displaced in making a site or a residential structure available for rehabilitation or construction financed by loans insured under this part, and relocation advisory assistance provided to such persons, as specified by Section 41397. Relocation payments shall also be made to owners involuntarily displaced because of inability to afford costs of compliance required pursuant to this part, but any payment pursuant to Section 4623 of Title 42 of the United States Code or Section 7263 of the Government Code shall be limited to the reasonable cost of a replacement dwelling adequate to accommodate the displaced person or family without regard to whether the dwelling is otherwise comparable to the dwelling formerly occupied, less the amount received from sale of the dwelling. Relocation payments may be made from the proceeds of insured loans as authorized by the agency.

(k) The residential structure for which a loan is insured pursuant to this part shall be insured against loss due to fire and other causes, as provided by the regulations of the agency.

(*l*) Such other terms and conditions as the agency, by regulation, determines are necessary to further the purposes of this part.

SEC. 7. Section 42065 of the Health and Safety Code, as added by Chapter 2 of the Statutes of 1975 (First Extraordinary Session), is amended to read:

42065. (a) The agency shall, after public hearings, establish, and may from time to time revise, a schedule of insurance premiums to be added to the interest rates of insured loans. Such premiums may vary according to the category of the loan and the degree of risk related to the loan. Premiums shall be calculated in an amount which, when added to the other revenues of the insurance program, will be adequate to defray losses occasioned by defaults and the operating expenses of the program, to repay amounts advanced to the agency for purposes of this part from the General Fund, to make payments to the General Obligation Bond Account to the extent required by Section 41806.5, and gradually to expand the insurance capability of the program. Approved lending institutions shall remit premiums to the agency at intervals specified by the agency.

(b) The agency may by regulation prescribe such other charges as it finds necessary, including service charges and appraisal, inspection, and other fees.

SEC. 8. Section 42070 of the Health and Safety Code is repealed.

CHAPTER 1224

An act to amend Sections 220 and 296 of, and to repeal and add Section 11509 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 30, 1975. Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 220 of the Vehicle Code is amended to read:

220. (a) An "automobile dismantler," is any person who is engaged in the business of buying, selling, or dealing in vehicles of a type required to be registered under this code, for the purpose of dismantling the same, who buys or sells the integral parts and component materials thereof, in whole or in part, or deals in used motor vehicle parts. This section does not apply to the occasional and incidental dismantling of vehicles by dealers who have secured dealers plates from the department for the current year whose principal business is buying and selling new and used vehicles, or by owners who desire to dismantle not more than three personal vehicles within any 12-months period.

(b) Notwithstanding the provisions of subdivision (a), any person who keeps or maintains on real property owned by him, or under his

possession or control, two or more unregistered motor vehicles no longer intended for, or in condition for, legal use on the highways, whether for the purpose of resale of used parts, for the purpose of reclaiming for use some or all of the materials, whether metal, glass, fabric, or otherwise, or to dispose of them, or for any other purpose is an "automobile dismantler" and subject to the provisions of Chapter 3 (commencing with Section 11500) of Division 5.

(c) The provisions of subdivision (b) shall not apply to:

(1) The owner of any premises on which two or more unregistered and inoperable vehicles are held or stored where such vehicles are used, or intended to be used, for restoration or as replacement parts or otherwise in conjunction with any business of a licensed dealer, manufacturer, or transporter, or in conjunction with the operation and maintenance of any fleet of motor vehicles used for the transportation of persons or property.

(2) The owner of any premises or property used in conjunction with any agricultural, farming, mining, ranching, or motor vehicle repair business.

(3) Any person engaged in the restoration of vehicles of the type described in Section 5004 or in the restoration of other vehicles having historic or classic significance.

(4) The owner of a steel mill, scrap metal processing facility or similar type establishment purchasing vehicles of a type subject to registration, not for the purpose of selling the vehicles in whole or in part but exclusively for the purpose of reducing such vehicles to their component materials; provided that such facility obtain on a form approved or provided by the department a certification by the person from whom the vehicles are obtained, that any such vehicle has been cleared for dismantling pursuant to Section 11520. All forms shall be available for inspection by a peace officer during business hours.

SEC. 2. Section 296 of the Vehicle Code is amended to read:

296. A "distributor" is any person other than a manufacturer who sells or distributes new motor vehicles subject to registration under this code to dealers in this state and maintains representatives for the purpose of contacting dealers or prospective dealers in this state.

SEC. 3. Section 11509 of the Vehicle Code is repealed.

SEC. 4. Section 11509 is added to the Vehicle Code, to read:

11509. (a) The department, after notice and hearing, may suspend or revoke the license issued to an automobile dismantler upon the determination that the person to whom the license was issued is not lawfully entitled thereto or has committed any of the following acts:

(1) Has made or knowingly or negligently permitted any illegal use of the special plates issued to him.

(2) Used a false or fictitious name or knowingly made any false statement or concealed any material fact in any application or other document filed with the department.

(3) Failed to provide and maintain a clear physical division

between the type of business licensed hereunder and any other type of business conducted at the established place of business.

(4) Has violated one or more terms and provisions of Division 3 (commencing with Section 4000) or any rules and regulations adopted pursuant thereto.

(5) Has violated any of the terms or provisions of Division 4 (commencing with Section 10500) or any rules and regulations adopted pursuant thereto.

(6) Has violated one or more terms and provisions of Chapter 3 (commencing with Section 11500) of Division 5 or any rules or regulations adopted pursuant thereto.

(7) Has violated one or more terms and provisions of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or any rules and regulations adopted pursuant thereto.

(8) Has been convicted of a felony or a crime involving moral turpitude.

(9) Has purchased, concealed, had in his possession, or otherwise acquired or disposed of a vehicle, knowing the same to be stolen.

(10) Has failed to meet and maintain the requirements for issuance of an automobile dismantler's license as provided in this code.

(11) Has failed to pay, within 30 days after written demand from the department, any fees or penalties due on vehicles acquired for dismantling which are not the subject of dispute. If the dismantler disputes the validity of such fees or penalties, the 30-day period shall not commence until the department, after review, has determined the fee or penalty to be due.

(12) Has submitted a check, draft, or money order to the department for any obligation or fees due the state and it is thereafter dishonored or refused payment upon presentation.

(b) Any of the causes specified in Section 11503 as a cause for refusal to issue a license to an automobile dismantler applicant, shall be cause, after notice and hearing, to suspend or revoke a license and special plates issued to an automobile dismantler.

(c) Every hearing as provided for in this chapter shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 1225

An act to add Article 2.6 (commencing with Section 12539.9) to Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code, to add Sections 10123.1 and 11512.21 to, and to add Article 1.5 (commencing with Section 10128) to Chapter 1 of Part 2 of Division 2 of, the Insurance Code, relating to insurance.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Article 2.6 (commencing with Section 12539.9) is added to Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 2.6. Replacement of Group Disability Insurance and Health Care Service Plans

12539.9. The provisions of this article shall apply to all group health care service plans issued in this state pursuant to Section 12530 of the Government Code.

12539.10. In this article, unless the context otherwise requires:

(a) "Carrier" shall mean the group health care service plan or other entity responsible for the payment of benefits or provision of services under a policy.

(b) "Dependent" shall have the meaning set forth in a policy.

(c) "Discontinuance" shall mean the termination of a policy which is replaced by replacement coverage.

(d) "Employee" shall mean all agents, employees, and members of unions or associations to whom benefits are provided under a policy.

(e) "Extension of benefits" means the continuation of coverage under a particular benefit provided under a policy following discontinuance with respect to an employee or dependent who is totally disabled on the date of discontinuance.

(f) "Policy" shall mean any group health care service plan or other plan, contract or policy subject to the provisions of this article.

(g) "Policyholder" shall mean the entity to which a policy is issued as specified in the code sections listed in Section 12539.9.

(h) "Premium" shall mean the consideration payable to the carrier.

(i) "Replacement coverage" shall mean the benefits provided by a succeeding carrier which are similar to the benefits provided by the prior carrier.

(j) "Totally disabled" shall have the meaning set forth in a policy.

12539.11. (a) Every policy containing the benefits described in subdivision (b) of this section shall contain a provision which provides for a reasonable extension of benefits with respect to employees or dependents who become totally disabled after January 1, 1977, and continue to be totally disabled at the date of discontinuance of the policy. Such an extension of benefits provision shall be deemed a reasonable extension of benefits provision if it complies with the standards set forth in subdivision (b).

(b) In the case of a policy providing hospital, medical or surgical expense coverage, or providing hospital, medical or surgical services, the extension of benefits provision shall be deemed reasonable if it

provides services or benefits for covered expenses directly related to the disabling condition existing prior to discontinuance for a period of 12 months following such discontinuance.

The benefits provided or payable during any extension of benefits may be subject to all limitations or restrictions contained in the policy. Any extension of benefits may be terminated at such time as the employee or dependent is no longer totally disabled.

12539.12. (a) Any carrier providing replacement coverage with respect to hospital, medical or surgical expense or service benefits within a period of 60 days from the date of discontinuance of a prior policy providing such hospital, medical or surgical expense benefits or service shall immediately cover all employees and dependents to the extent such employees and dependents were validly covered under the previous policy at the date of discontinuance who are within the definitions of eligibility under the succeeding carrier's policy and who would otherwise be eligible for coverage under the succeeding carrier's policy, regardless of any limitations or exclusions relating to active employment or nonconfinement or pregnancy

(b) With respect to an employee or dependent who was totally disabled on the date of discontinuance of the prior carrier's policy and required to be covered under subdivision (a) of this section, the succeeding carrier shall be entitled to deduct from any benefits becoming payable under its policy the amount of benefits payable by the prior carrier pursuant to an extension of benefits provision.

(c) An employee or dependent entitled to coverage under a succeeding carrier's policy pursuant to subdivision (a) or (b) of this section shall continue to be covered by the succeeding carrier until the earlier of the following:

(1) The date coverage would terminate for an employee or dependent in accordance with the provisions of the succeeding carrier's policy, or

(2) In the case of an employee or dependent who was totally disabled on the date of discontinuance of the prior carrier's policy and entitled to an extension of benefits pursuant to subdivision (b) of Section 12539.11, the date the period of extension of benefits terminates or, if the prior carrier's policy is not subject to this article, the date to which benefits would have been extended had the prior carrier's policy been subject to this article.

(d) No provision in a succeeding carrier's policy of replacement coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding carrier's policy shall be applied with respect to those employees and dependents validly insured under the prior carrier's policy on the date of discontinuance, if benefits for such condition would have been provided or payable under the prior carrier's policy.

(e) In a situation where a determination of the prior carrier's benefit is required by the succeeding carrier, at the succeeding carrier's request, the prior carrier shall furnish a statement of

benefits available or pertinent information, sufficient to permit verification of the benefit determination by the succeeding carrier.

12539.13. This article shall apply to all policies issued or issued for delivery or amended in this state after January 1, 1977.

SEC. 2. Section 10123.1 is added to the Insurance Code, to read:

10123.1. Every self-insured employee welfare benefit plan, as defined in Section 10121, issued, amended, or renewed after January 1, 1977, shall comply with the requirements of Article 1.5 (commencing with Section 10128) of this chapter.

SEC. 3. Article 1.5 (commencing with Section 10128) is added to Chapter 1 of Part 2 of Division 2 of the Insurance Code, to read:

Article 1.5. Replacement of Group Life and Disability Insurance

10128. The provisions of this article shall apply to all policies of group life insurance issued in this state pursuant to the provisions of Sections 10202, 10202.7, 10202.8, 10203 and 10203.7, to all group disability policies issued in this state pursuant to the provisions of Section 10270.5, to any group nonprofit hospital service contract issued in this state pursuant to the provisions of Section 11512.2, and to any self-insured welfare benefit plan issued in this state as defined in Section 10121.

10128.1. In this article, unless the context otherwise requires:

(a) "Carrier" means the insurance company, nonprofit hospital service corporation, or other entity responsible for the payment of benefits or provision of services under a policy.

(b) "Dependent" shall have the meaning set forth in a policy.

(c) "Discontinuance" means the termination of a policy which is replaced by replacement coverage.

(d) "Employee" means all agents, employees, and members of unions or associations to whom benefits are provided under a policy

(e) "Extension of benefits" means the continuation of coverage under a particular benefit provided under a policy following discontinuance with respect to an employee or dependent who is totally disabled on the date of discontinuance.

(f) "Policy" means any group insurance policy, group hospital service contract or other plan, contract or policy subject to the provisions of this article.

(g) "Policyholder" means the entity to which a policy or contract specified in Section 10128 is issued.

(h) "Premium" means the consideration payable to the carrier.

(i) "Replacement coverage" means the benefits provided by a succeeding carrier which are similar to the benefits provided by the prior carrier.

(j) "Totally disabled" shall have the meaning set forth in a policy.

10128.2. Every policy containing the benefits described in subdivisions (a), (b), or (c) of this section shall contain a provision which provides for a reasonable extension of benefits with respect to employees or dependents who become totally disabled after January

1, 1977, and continue to be totally disabled at the date of discontinuance of the policy. Such an extension of benefits provision shall be deemed a reasonable extension of benefits provision if it complies with the standards set forth in subdivisions (a), (b), or (c) of this section.

(a) In the case of a policy providing life insurance benefits, the extension of benefits provision shall be deemed reasonable if discontinuance does not terminate the insurance or special benefits provided as long as the employee or dependent is disabled.

(b) In the case of a policy providing benefits for loss of time or a specific indemnity during hospital confinement, the extension of benefits provisions shall be deemed reasonable if discontinuance does not affect the benefit provided.

(c) In the case of a policy providing hospital, medical or surgical expense coverage, the extension of benefits provision shall be deemed reasonable if it provides benefits for covered expenses directly related to the disabling condition existing prior to discontinuance for a period of 12 months following such discontinuance.

The benefits payable during any extension of benefits may be subject to all limitations or restrictions contained in the policy. Any extension of benefits may be terminated at such time as the employee or dependent is no longer totally disabled.

10128.3. (a) Any carrier providing replacement coverage with respect to hospital, medical or surgical expense benefits within a period of 60 days from the date of discontinuance of a prior policy providing such hospital, medical or surgical expense benefits shall immediately cover all employees and dependents to the extent such employees and dependents were validly covered under the previous policy at the date of discontinuance who are within the definitions of eligibility under the succeeding carrier's policy and who would otherwise be eligible for coverage under the succeeding carrier's policy, regardless of any limitations or exclusions relating to active employment or nonconfinement or pregnancy.

(b) With respect to an employee or dependent who was totally disabled on the date of discontinuance of the prior carrier's policy and required to be covered under subdivision (a) of this section, the succeeding carrier shall be entitled to deduct from any benefits becoming payable under its policy the amount of benefits payable by the prior carrier pursuant to an extension of benefits provision.

(c) An employee or dependent entitled to coverage under a succeeding carrier's policy pursuant to subdivision (a) or (b) of this section shall continue to be covered by the succeeding carrier until the earlier of the following:

(1) The date coverage would terminate for an employee or dependent in accordance with the provisions of the succeeding carrier's policy, or

(2) In the case of an employee or dependent who was totally disabled on the date of discontinuance of the prior carrier's policy

and entitled to an extension of benefits pursuant to subdivision (c) of Section 10128.2, the date the period of extension of benefits terminates or, if the prior carrier's policy is not subject to this article, the date to which benefits would have been extended had the prior carrier's policy been subject to this article.

(d) No provision in a succeeding carrier's policy of replacement coverage which would operate to reduce or exclude benefits on the basis that the condition giving rise to benefits preexisted the effective date of the succeeding carrier's policy shall be applied with respect to those employees and dependents validly insured under the prior carrier's policy on the date of discontinuance, if benefits for such condition would have been payable under the prior carrier's policy.

(e) In a situation where a determination of the prior carrier's benefit is required by the succeeding carrier, at the succeeding carrier's request, the prior carrier shall furnish a statement of benefits available or pertinent information, sufficient to permit verification of the benefit determination by the succeeding carrier.

10128.4. This article shall apply to all policies issued, delivered, amended, or renewed in this state after January 1, 1977.

SEC. 4. Section 11512.21 is added to the Insurance Code, to read:

11512.21 Every group hospital service contract issued or issued for delivery or amended in this state after January 1, 1977 shall comply with the requirements of Article 1.5 (commencing with Section 10128) of Chapter 1 of this part

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CHAPTER 1226

An act to add Section 12302.1 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Section 12302.1 is added to the Welfare and Institutions Code, to read:

12302.1. Contracts entered into by a county under Section 12302 shall be for periods not exceeding one year and shall, in addition to including provisions required by Section 12303, be subject to the following:

(a) Prior to initiating a contract or contracts pursuant to Section 12302, the county shall publicize its intention to solicit bids to enter into such contracts.

(b) When the county has selected one or more contract proposals for tentative acceptance, the county board of supervisors shall conduct a hearing on the proposed contract or contracts, which shall

be at a regularly scheduled meeting of the board of supervisors, and open to the public.

(c) Public findings based on the hearing shall be made available to interested parties.

(d) No contract for services provided under this article shall take effect until 30 calendar days have elapsed from the time of the public hearing required under this section.

(e) The county board of supervisors may award one or more service contracts pursuant to this article based upon the fiscal responsibility of the service provider, experience of the service provider in providing services pursuant to this article, and any other consideration in the public interest; provided that nothing in this subdivision shall preclude a requirement that contracts under this section be awarded on a competitive bid basis.

(f) The county, to insure fiscal and program compliance, shall review the contract during the contract term. Such review may include, but shall not be limited to, a fiscal audit.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1227

An act to add Chapter 10 (commencing with Section 8800) to Division 1 of Title 2, and to repeal Sections 8835 and 14657 and Article 8 (commencing with Section 14716) of Chapter 2 of Part 5.5 of Division 3 of Title 2 of, the Government Code, relating to public broadcasting, and making an appropriation therefor.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1 Chapter 10 (commencing with Section 8800) is added to Division 1 of Title 2 of the Government Code, to read:

CHAPTER 10. PUBLIC BROADCASTING ACT OF 1975

Article 1. General Provisions and Definitions

8800. This chapter shall be known and may be cited as the Public Broadcasting Act of 1975.

8801. The Legislature finds and declares as follows:

(a) It is the policy of this state to support and encourage the

provision of a high-quality educational, cultural, and public affairs program service designed to meet the needs of the citizens of this state and its various localities.

(b) It is the policy of this state that in so supporting and encouraging such a program service, all decisions affecting the content and scheduling of such service are the sole responsibility of each licensee and shall be free from improper interference.

(c) Existing public broadcasting stations represent a valuable public resource, the facilities, skills, and talent of which should be utilized to the maximum feasible extent in carrying out the purposes of this chapter.

8802. The definitions contained in this article shall govern the construction of this chapter unless the context requires otherwise.

8803. "Commission" means the California Public Broadcasting Commission.

8804. "Corporation for Public Broadcasting" means the corporation established pursuant to Section 396 of Title 47 of the United States Code.

8804.5. "Instructional programming" means public broadcast programming which is curriculum related, whether for credit or not.

8805. "Interconnection" means the use of apparatus or equipment for the electronic transmission and distribution of public broadcast programming to public broadcasting stations.

8806. "Public broadcast programming" means programming intended for presentation on public broadcast stations, including, but not limited to, public affairs, cultural, and instructional programming.

8807. "Public broadcasting station" means a noncommercial educational broadcasting station licensed as such by the Federal Communications Commission and eligible for financial grants from the Corporation for Public Broadcasting, as well as any other noncommercial educational broadcasting stations designated by the commission. The commission shall establish such criteria for the qualification of other stations as public broadcasting stations as it determines are reasonably necessary to carry out the purposes of this chapter.

8807.5. "Instructional committee" means the instructional broadcast advisory committee created by Article 4 (commencing with Section 8830) of this chapter.

8808. "Radio committee" means the radio advisory committee created by Article 4 (commencing with Section 8830) of this chapter

8809. "T.V. committee" means the television advisory committee created by Article 4 (commencing with Section 8830) of this chapter.

8809.5. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Article 2. California Public Broadcasting Commission

8810. The California Public Broadcasting Commission is hereby created in state government as an independent commission in order to encourage the growth and development of public broadcasting services to the people of this state.

8811. The commission shall consist of 11 members, as follows:

(a) Five members appointed by the Governor for terms of five years, except that the terms of the original members shall be as follows: one member shall be appointed for one year, one member for two years, one member for three years, one member for four years, and one member for five years. One such appointee shall be from a commercial broadcast station.

(b) Two members appointed by the Speaker of the Assembly for terms of four years, except that the terms of the original members shall be as follows: one member shall be appointed for one year, and one member for three years.

(c) Two members appointed by the Senate Committee on Rules for terms of four years, except that the terms of the original members shall be as follows: one member shall be appointed for two years, and one member for four years.

(d) The Superintendent of Public Instruction.

(e) The Director of the Postsecondary Education Commission.

All initial appointments shall be made on or before March 1, 1976, and all subsequent vacancies shall be filled within 30 days of their occurrence by the authority which made the original appointment to the vacant position.

At no time shall more than six members of the commission be affiliated with the same political party.

8812. Appointees to the commission shall be persons who are eminent in such fields as education, cultural affairs, public service, or the arts, including public broadcasting. They shall, as nearly as practicable, provide a broad representation of the various regions of the state, various professions and occupations, and various kinds of talent and experience appropriate to the functions and responsibilities of the commission.

8813. The appointive members of the commission shall be compensated at the rate of one hundred dollars ($100) for each day of official commission meetings they attend. Commission members shall be reimbursed for expenses incurred in the performance of their official duties.

8814. The commission shall select annually from among its membership a chairman and vice chairman.

8815. The commission shall appoint an executive secretary and employ such staff as it may deem necessary in performing the duties prescribed by this chapter.

8816. The commission shall, in carrying out its responsibility and exercising its authority, make maximum use, for the purposes of economy, efficiency, and effectiveness, of existing public broadcast

facilities in California, as well as state-owned telecommunications facilities appropriate for use in interconnection.

8817. (a) The commission shall adopt and enforce reasonable standards governing the acceptance of any salary or other compensation by its employees from sources other than the commission during the course of their employment by the commission.

(b) The executive secretary, subject to general policies adopted by the commission, may appoint or remove, subject to civil service, such employees of the commission as deemed necessary to carry out the purposes of the commission.

8818. The meetings of the commission shall be open and public in accordance with Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of this title.

Article 3. Powers and Duties

8820. The commission shall develop and support a statewide policy to encourage the orderly growth and development of public broadcasting service responsive to the informational, cultural, and educational needs of the people of California.

8821. The commission may make grants to public broadcasting stations in order to aid in the improvement of their broadcast operations, programming, and capital facilities and equipment.

8822. The commission may cause to be established, managed, and operated systems of interconnection and other methods of statewide distribution of public television and radio programs. At least two audio and one video channel of such interconnection system shall be reserved at all times for priority use by public broadcast stations.

8823. The commission may, taking into account the advice of the radio committee or the T.V. committee, as appropriate, make grants for the development, production, and acquisition of public broadcast programming.

8824. The commission may apply for, receive, and distribute federal funds, state funds, and other public or private funds from any source for all or any purposes of this chapter.

8825. The commission may conduct, through grants or contracts, research and demonstration activities in matters relating to public broadcasting.

8826. The commission may enter into contracts, leases, and other arrangements, and shall do all things necessary and proper to carry out the provisions of this chapter, consistent with state and federal law, and may promulgate rules and regulations relative thereto.

8827. The commission shall perform its duties under this chapter in a manner that will assure the maximum freedom of the public broadcasting stations and systems from interference with or control of program content, scheduling, or other activities.

8828. The commission shall submit an annual report to the Governor and the Legislature, on or before December 31 of each

year, covering the commission's activities, financial condition, and accomplishments under this chapter for the preceding fiscal year ending June 30, as well as such recommendations as the commission deems appropriate.

Article 4. Advisory Committees

8830. At its first meeting, the commission shall establish the radio committee, the T.V. committee, and the instructional committee. Each committee shall elect a chairman who shall convene the committee whenever the commission or one-third of the committee members so request or whenever the chairman deems a meeting appropriate. Committee members shall be compensated by the commission for their necessary and proper expenses in fulfilling their duties under this chapter.

8831. Each public radio station may appoint a representative to the radio committee, and each public television station may appoint a representative to the T.V. committee. The radio and T.V. committees shall advise the commission on the implementation of this chapter. In fulfilling this responsibility, the radio and T.V committees may do all of, but shall not be limited to, the following:

(a) Periodically prepare an assessment of statewide public broadcast programming needs.

(b) Recommend appropriate actions by the commission pursuant to Section 8823 to meet the needs identified under subdivision (a).

(c) Make recommendations on grants for production or contracts for acquisition of programming.

(d) Make recommendations on the management and operation of interconnection systems.

(e) Make recommendations on grants for improvement of station facilities and equipment.

(f) Make recommendations on statewide support services, such as promotion, development, engineering, research, program information, and personnel recruitment.

8832. The commission shall also establish the instructional committee composed of one member and one alternate member appointed for one-year terms by each of the following:

(a) The Regents of the University of California.

(b) The Trustees of the California State University and Colleges.

(c) The Board of Governors of the California Community Colleges.

(d) The independent California colleges and universities.

(e) The vocational and private postsecondary institutions.

(f) The Superintendent of Public Instruction

(g) The private primary and secondary schools.

8833. The instructional committee shall advise the commission on instructional programming. In fulfilling this responsibility, the committee may do all of, but shall not be limited to, the following:

(a) Periodically prepare an assessment of statewide instructional

programming needs.

(b) Recommend appropriate actions by the commission pursuant to Section 8823 to meet the needs identified under subdivision (a).

(c) Make recommendations on grants for production or contracts for acquisition of instructional programming.

(d) Make recommendations on statewide support services, such as promotion, development, engineering, research, program information, and personnel recruitment related to instructional programming.

Article 5. Funding

8835. (a) The California Public Broadcasting Fund is hereby created in the State Treasury, effective January 1, 1976. The fund shall be a means of annually funding state support for the development, operation, interconnection, and programming of public broadcasting stations.

(b) The State Controller shall transfer from the General Fund to the California Public Broadcasting Fund one hundred eighty-three thousand dollars ($183,000) in the 1975–76 fiscal year.

8836. The commission shall annually divide the total amount, less the commission's necessary administrative expenses, available from the California Public Broadcasting Fund for distribution to public broadcasting stations into two accounts, one to be used for television purposes, and one to be used for radio purposes. The account used for television purposes shall be allocated 83.25 percent of the amount available and the account used for radio purposes shall be allocated 16.75 percent of the amount available.

8836.5. (a) The commission shall reserve for distribution among the public broadcasting stations an amount not less than 25 percent of the television account and not less than 25 percent of the radio account established pursuant to Section 8836 for use, at each station's discretion, in activities related to its local community broadcast operations. Until the commission by regulation establishes a different formula, and in any event during the first 12 months of operation, distribution of such amounts shall be made as follows:

(1) For television purposes, 40 percent of such amounts shall be divided by the number of stations qualifying as public broadcast stations and distributed equally, 12 percent shall be distributed to each such station in proportion to the population served by that station, as determined by the Corporation for Public Broadcasting, and 48 percent shall be divided among all such stations in proportion to their income exclusive of all commission funds, as determined by the Corporation for Public Broadcasting

(2) For radio purposes, each station qualifying as a public broadcast station shall receive an equal share.

(b) The commission shall, after consultation with the radio and television committees, establish, and review annually, criteria and conditions regarding the distribution of amounts disbursed from the

California Public Broadcasting Fund into the television and radio accounts established pursuant to Section 8836.

(c) Amounts disbursed under this section are to be used to finance projects that will augment the ability of public broadcasting stations to serve their communities. These amounts are not to be used to supplant funds already budgeted.

(d) This section shall be of no force or effect during any year in which the commission's total budget is less than five hundred thousand dollars ($500,000).

8837. (a) The commission shall prepare an annual financial statement showing all income and expenditures for the preceding year. The commission shall, by regulation, require each recipient of assistance by grant or contract, other than a fixed price contract awarded pursuant to competitive bidding procedures, under this chapter to keep such records as the commission determines are reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit pursuant to Section 8838.

(b) The commission may prescribe forms for the compilation of the information required by this section.

8838. Nothing in this chapter shall be deemed to supersede the responsibilities of a state agency or regional or local agency except as expressly provided. Nothing in this chapter shall be construed to conflict with Section 6443 5, 6444, 6444.1, 6444.2, or 6444.3 of the Education Code.

The commission succeeds to and is vested with all powers and responsibilities previously vested in the Director and Department of General Services by Section 14657 of the Government Code and Article 8 (commencing with Section 14716) of Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code.

SEC. 2. Section 14657 of the Government Code is repealed.

SEC. 3. Article 8 (commencing with Section 14716) of Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code is repealed.

CHAPTER 1228

An act to amend Sections 117b and 117g of the Code of Civil Procedure, relating to small claims courts.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 117b of the Code of Civil Procedure is amended to read:

117b. The claim described in Section 117a shall be on a blank substantially in the following form:

In the Small Claims Court _____, County of _____, State of California

_____
Plaintiff,
vs.
_____
Defendant.

State of California, County of _____. } ss. Claim of Plaintiff

_____, being duly sworn, deposes and says: That the defendant is indebted to the plaintiff in the sum of $_____; that the subject matter of the claim is _____; that this claimant has demanded payment of said sum; that the defendant refused to pay the same and no part thereof has been paid; that the defendant resides at _____, in the above-named county, or city and county (or, "that the obligation sued on was contracted to be performed at _____ in the above-named county, or city and county"); that this claimant resides at _____, County. (or City and County) of _____, in the State of California; that this claimant understands that the judgment on his claim will be conclusive without right of appeal by him.

Subscribed and sworn to before me this _____ day of _____, 19____.

_____
Judge (clerk or notary public).

In cases of unlawful detainer within the jurisdiction of this court, the claim described in Section 117a shall be on a blank substantially in the following form:

In the Small Claims Court _____,
County of _____,

_____
Plaintiff,
vs.
_____
Defendant.

State of California
County of _____. } ss. Claim of Plaintiff

_____ being first duly sworn, deposes and says: That prior to _____ defendants were tenants of plaintiff in the premises described as _____, California, at a rental of $_____ per _____ payable _____; that on _____ defendants were indebted to plaintiff in the sum of $_____ as rent for said premises; that on _____ plaintiff served the attached notice on defendants; that defendants have not paid any part of the rent demanded and are still in possession of the premises without plaintiff's consent; that the rental value of said premises is $_____ per month; that this claimant understands that the judgment on his claim will be conclusive without right of appeal by him.

Subscribed and sworn to before me this _____ day of _____, 19____.

_____

Judge (clerk or notary public).

On the claim shall be printed:

Order

The people of the State of California, to the within named defendant, greeting:

You are hereby directed to appear and answer the within and foregoing claim at my office in _____, _____ (name of building or residence) in _____, County of _____, State of California (or at the courtroom of Department _____, of the municipal court in, etc.) on the _____ day of _____, 19____, at the hour of ____ o'clock in the ____noon of said day; and to have with you, then and there, all books, papers, and witnesses needed by you to establish your defense to said claim.

And you are further notified that in case you do not so appear, judgment will be given against you in accordance with said claim as it is stated in said affidavit, and in addition costs of the action including costs of services of the order.

Dated this _____ day of _____, 19____.

_____

Judge (or clerk of court).

SEC. 2. Section 117g of the Code of Civil Procedure is amended to read:

117g. (a) No attorney at law or other person than the plaintiff and defendant shall take any part in the filing or the prosecution or defense of such litigation in the small claims court. A person as a trustee in bankruptcy or a holder of a conditional sales contract described in Section 117f may file or prosecute a claim in a small claims court in the same manner as any other claimant or plaintiff.

The plaintiff and defendant shall have the right to offer evidence in their behalf by witnesses appearing at such hearing, or, with the permission of the court, at any other time. If the defendant fails to appear at the hearing, the court shall still require the plaintiff to present evidence to prove his claim. The presence of the plaintiff or defendant, whether individual or corporate, at the hearing shall not be required to permit the proof of the items of an account but such proof shall be in accordance with the provisions of Sections 1270 and 1271 of the Evidence Code. The judge or justice may also informally make any investigation of the controversy between the parties either in or out of court and give judgment and make such orders as to time of payment or otherwise as may, by him, be deemed to be right and just. The provisions of Section 579 of the Code of Civil Procedure are hereby made applicable to small claims court actions.

(b) A claim filed by a plaintiff who is an attorney at law or by a corporation shall contain a statement, if it be the case, that it shall be prosecuted in the small claims court by a party, or in the case of a corporation by an officer or employee, who is an attorney at law, and that the defendant, if he is not an attorney at law or a corporation intending to appear through an officer or employee who is an attorney at law, has a right to have the case transferred from the small claims court calendar to the regular calendar of the justice court or municipal court, as the case may be. Failure to comply with this requirement shall cause the case to be dismissed without prejudice to the plaintiff. The defendant, if he is not an attorney at law or a corporation intending to appear through an officer or employee who is an attorney at law, may at any time after service of the claim upon him up to and including the time of trial move the court, ex parte, in person or by mail for an order transferring the case from the small claims court calendar to the regular calendar of the appropriate court. If the defendant moves for such a transfer, the court shall make an appropriate order transferring the case from the small claims court calendar to the regular calendar of the justice court or the municipal court, as the case may be.

A defendant who is an attorney at law or a corporation that intends to defend against the claim through an officer or employee who is an attorney at law shall disclose that fact to the court in writing not later than 48 hours prior to the hour set for the appearance of the defendant in the action Failure to comply with this requirement shall bar the conduct of the defense of the action by a party, or in the case of a corporation an officer or employee, who is an attorney at law. Prior to or at the time set for such appearance the court shall advise the plaintiff that the claim will be defended against by a party or its officer or employee who is an attorney at law, and that the plaintiff, if he is not an attorney at law or a corporation intending to appear through an officer or employee who is an attorney at law, has the right to have the case transferred from the small claims court calendar to the regular calendar of the appropriate court. If the plaintiff requests such a transfer the court shall make an appropriate

order transferring the case from the small claims court calendar to the regular calendar of the justice court or the municipal court, as the case may be.

(c) The motion authorized by subdivision (b) shall be made upon the sole ground that the moving party desires to be represented by counsel in the conduct of the trial, and a motion made under subdivision (b) upon any other grounds shall be denied. If the motion is granted, the moving party shall be required to be represented by counsel in the conduct of the trial, and the court shall so advise him at the time the motion is made and before it is granted, provided that if after the case is transferred the moving party, after diligent effort, has been unable to obtain counsel, the court shall transfer the case back to the small claims court calendar.

(d) The fee for obtaining a transfer pursuant to subdivision (b) is ten dollars ($10).

SEC. 3. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1229

An act to amend Sections 188.3 and 30101 of, to add Section 30150.5 to, and to add Article 3.5 (commencing with Section 30880) to Chapter 3 of Division 17 of, the Streets and Highways Code, relating to highways and toll bridges, and making an appropriation therefor.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 188.3 of the Streets and Highways Code is amended to read:

188.3. Notwithstanding Section 186, the cost of maintenance of all landscaping and functional planting on state highways by the department and the cost of maintenance of all toll bridges under the jurisdiction of the California Toll Bridge Authority shall be paid out of money in the State Highway Account in the State Transportation Fund available for the construction of state highways, prior to the allocation of money between county groups under Section 188, provided that expenditures for the maintenance of landscaping and functional planting shall be limited to twenty-five million dollars ($25,000,000) annually.

The provisions of this section relating to payment of cost of maintenance of toll bridges under the jurisdiction of the California

Toll Bridge Authority shall not prevent the authority from (a) paying the cost of maintenance incurred on any such bridge from the revenues thereof after all bonds secured by the revenues of that bridge have been redeemed or (b) providing for the cost of maintenance of any such bridge whose revenues are pledged to secure any issue of revenue bonds sold on or after January 1, 1976, from the revenues of that bridge.

SEC. 2. Section 30101 of the Streets and Highways Code is amended to read:

30101. Except as otherwise provided in Section 30886, the authority shall fix the rates of toll and other charges for all toll bridges, tubes, or other toll highway crossings acquired or built pursuant to this chapter.

SEC. 3. Section 30150.5 is added to the Streets and Highways Code, to read:

30150.5. The department, at the time it submits any request, or develops and submits any program, to the authority for capital expenditure or improvement on any toll bridge under the jurisdiction of the authority and located within the region under the jurisdiction of the Metropolitan Transportation Commission, shall transmit a copy of the request or program, as the case may be, to the commission, which shall review the request or program and transmit its findings and recommendations thereon to the Secretary of the Business and Transportation Agency for consideration.

SEC. 4. Article 3.5 (commencing with Section 30880) is added to Chapter 3 of Division 17 of the Streets and Highways Code, to read:

Article 3.5. Toll Bridge Revenues

30880. It is the intent of the Legislature that toll bridge revenues be used to further the development of public transportation systems in the vicinity of toll bridges in order to alleviate automobile-related congestion and pollution and to diminish the need for state expenditures on new bridge facilities.

30881. "Authority" means the California Toll Bridge Authority.

30882. "Commission" means the Metropolitan Transportation Commission.

30883. "Department" means the Department of Transportation.

30884. "Net revenues" means those revenues of a toll bridge that are in excess of the amount required (a) to pay necessary costs of operation, maintenance, rehabilitation, and necessary safety improvements, (b) to meet the obligations assumed by the authority under any bond resolution applicable to the toll bridge, and (c) to repay any advances made to the department from any other source for studies and work preliminary to the financing of any toll bridge project.

30885. "Toll bridge" means any bridge under the jurisdiction of the authority, including the approaches to the toll bridge from the nearest highway that is not for the exclusive use of toll bridge traffic,

and located within the region under the jurisdiction of the commission.

30886. Upon securing the required consent of the holders of outstanding bonds on the toll bridge, and of the federal government where necessary, the commission may adopt a toll schedule in lieu of the one adopted by the authority for a toll bridge located within the region under its jurisdiction and allocate the net revenues therefrom pursuant to this article.

30887. The commission shall adopt a toll schedule only after (a) it has held public hearings within the region under its jurisdiction and (b) the authority has approved the proposed toll schedule.

However, the authority may increase the toll rates specified in the adopted toll schedule if this is necessary in order to enable the authority to meet its obligations under any bond resolution.

30888. The authority shall expeditiously approve the toll schedule proposed by the commission unless the authority finds and determines that proposed toll schedule:

(a) Will not generate sufficient revenues (1) to pay required costs of operation, maintenance, rehabilitation, and necessary safety improvements, (2) to meet the obligations assumed by the authority under any bond resolution applicable to the toll bridge, and (3) to repay any advances made to the department from any source for studies and work preliminary to the financing of any toll bridge project.

(b) Will adversely affect any state interest, as determined in cooperation with the State Transportation Board, including, but not limited to, the safe and efficient movement of traffic and the collection of tolls.

30889. In adopting a toll schedule for a toll bridge, the commission may not only seek to maximize the net revenues, but also to (a) decrease traffic flow on the bridge, (b) change peak traffic characteristics to achieve more efficient utilization of the bridge, and (c) change traffic network patterns.

30890. At least once each quarter, the department shall deposit the net revenues in the Toll Bridge Revenues Account, which is hereby created, in the State Transportation Fund.

The funds in the account are hereby continuously appropriated to the Controller, who shall, after deductions for administrative cost incurred pursuant to this section, allocate, at least quarterly, the remaining funds to the commission.

30891. The commission may retain, for its cost in administering this article, an amount not to exceed one-quarter of 1 percent of the net revenues allocated by it pursuant to Section 30892.

30892 After deduction for its administrative cost, the commission shall allocate the remaining funds to public entities operating public transportation systems and to the department to achieve the commission's capital planning objectives in the vicinity of toll bridges as set forth in its adopted regional transportation plan. Such objectives shall include, but not be limited, to:

(a) Transbridge corridor trunk transit services.

(b) Feeder service to transbridge trunk transit services.

(c) Bridge traffic control devices required to establish exclusive lanes for transit services.

(d) Transbridge terminal facilities.

(e) Transbridge corridor guideway facilities.

(f) Improvement of alternate public transportation facilities and routings which affect bridge traffic.

30893. The commission may also allocate the funds to public entities and the department for the establishment and operation of ferry systems within the region under the jurisdiction of the commission.

30894. The commission shall adopt and distribute procedures for the submission of applications for funding and allocation of funds. Only those applications for projects which will implement the commission's capital planning objectives in the vicinity of toll bridges as set forth in its adopted regional transportation plan, or the commission's objectives with respect to ferry systems, shall be approved.

30895. Annually, prior to the allocation of net revenues, the commission shall prepare and submit to the Legislature a report on the capital planning and ferry system objectives of the commission to be achieved through the allocation of such revenues

30896. Nothing in this article shall be construed to prohibit the construction of a new Antioch Bridge pursuant to Section 30762 or of a new Dumbarton Bridge pursuant to Section 30792.2, and the pledge and use of the revenues of other toll bridges in connection with the issuance of revenue bonds to finance such construction if authorized by other provisions of law.

In such a case, the department shall finance the construction of a new Antioch Bridge or a new Dumbarton Bridge, or both, as the case may be, in such a manner so as to maximize the amount of net revenues for deposit in the Toll Bridge Revenues Account in the State Transportation Fund.

CHAPTER 1230

An act to amend Sections 13810, 13812, 13813, 13823, 13900, 13903 and 13905 of, and to repeal Sections 13901, 13902 and 13904 of, and to add Sections 13901, 13902, and 13904 to, the Penal Code, relating to criminal justice and delinquency prevention.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 13810 of the Penal Code is amended to read:

13810. There is hereby created in the state government the California Council on Criminal Justice, which shall be composed of the following members: the Attorney General; the Administrative Director of the Courts; 15 members appointed by the Governor, including the Commissioner of the Department of the Highway Patrol, the Director of the Department of Corrections, the Director of the Department of the Youth Authority, and the State Public Defender, if one should exist; six members appointed by the Senate Rules Committee, and six members appointed by the Speaker of the Assembly.

The remaining appointees of the Governor shall include different persons from each of the following categories: a district attorney, a sheriff, a county public defender, a county probation officer, a member of a city council, a member of a county board of supervisors, a faculty member of a college or university qualified in the field of criminology, police science, or law, a person qualified in the field of criminal justice research and two private citizens, including a representative of a citizens, professional, or community organization. The Senate Committee on Rules shall include among its appointments different persons from each of the following categories: a member of the Senate Committee on Judiciary, a representative of the counties, a representative of the cities, a judge designated by the Judicial Council, and two private citizens, including a representative of a citizens, professional, or community organization. The Speaker of the Assembly shall include among his appointments different persons from each of the following categories: a representative of the counties, a representative of the cities, a member of the Assembly Committee on Criminal Justice, a chief of police, and two private citizens, including a representative of a citizens, professional, or community organization directly related to delinquency prevention.

The Governor shall select a chairman from among the members of the council.

SEC. 2. Section 13812 of the Penal Code is amended to read:

13812. Members of the council shall receive no compensation for their services but shall be reimbursed for their expenses actually and necessarily incurred by them in the performance of their duties under this title. No compensation or expenses shall be received by the members of any continuing task forces, review committees or other auxiliary bodies created by the council who are not council members, except that persons requested to appear before the council with regard to specific topics on one or more occasions shall be reimbursed for the travel expenses necessarily incurred in fulfilling such requests.

The Advisory Committee on Juvenile Justice and Delinquency Prevention appointed by the Governor pursuant to federal law may be reimbursed by the Office of Criminal Justice Planning for

expenses necessarily incurred by the members. Staff support for the committee will be provided by the Office of Criminal Justice Planning.

SEC. 3. Section 13813 of the Penal Code is amended to read:

13813. The council shall act as the supervisory board of the state planning agency pursuant to federal acts. It shall annually review and approve, or review, revise and approve, the comprehensive state plan for the improvement of criminal justice and delinquency prevention activities throughout the state, shall establish priorities for the use of such funds as are available pursuant to federal acts, and shall approve the expenditure of all funds pursuant to such plans or federal acts; provided that the approval of such expenditures may be granted to single projects or to groups of projects.

SEC. 4. Section 13823 of the Penal Code is amended to read:

13823. (a) In cooperation with local boards, the office shall:

(1) Develop with the advice and approval of the council, the comprehensive statewide plan for the improvement of criminal justice and delinquency prevention activity throughout the state.

(2) Define, develop and correlate programs and projects for the state criminal justice agencies.

(3) Receive and disburse federal funds, perform all necessary and appropriate staff services required by the council, and otherwise assist the council in the performance of its duties as established by federal acts.

(4) Develop comprehensive, unified and orderly procedures to insure that all local plans and all state and local projects are in accord with the comprehensive state plan, and that all applications for grants are processed efficiently.

(5) Cooperate with and render technical assistance to the Legislature, state agencies, units of general local government, combinations of such units, or other public or private agencies, organizations or institutions in matters relating to criminal justice and delinquency prevention.

(6) Conduct evaluation studies of the programs and activities assisted by the federal acts.

(b) The office may:

(1) Collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of criminal justice in the state.

(2) Perform other functions and duties as required by federal acts, rules, regulations or guidelines in acting as the administrative office of the state planning agency for distribution of federal grants.

SEC. 5. Section 13900 of the Penal Code is amended to read:

13900. The Legislature finds and declares:

(a) That crime is a local problem that must be dealt with by state and local governments if it is to be controlled effectively.

(b) That criminal justice needs and problems vary greatly among the different local jurisdictions of this state.

(c) That effective planning and coordination can be accomplished

only through the direct, immediate and continuing cooperation of local officials charged with general governmental and criminal justice agency responsibilities.

(d) That planning for the efficient use of criminal justice resources requires a permanent coordinating effort on the part of local governments and local criminal justice and delinquency prevention agencies.

SEC. 6. Section 13901 of the Penal Code is repealed.

SEC. 7. Section 13901 is added to the Penal Code, to read:

13901. (a) For the purposes of coordinating local criminal justice activities and planning for the use of state and federal action funds made available through any grant programs, criminal justice and delinquency prevention planning districts shall be established.

(b) On January 1, 1976, all planning district boundaries shall remain as they were immediately prior to that date. Thereafter, the number and boundaries of such planning districts may be altered from time to time by a two-thirds vote of the California Council on Criminal Justice pursuant to this section; provided that no county shall be divided into two or more districts, nor shall two or more counties which do not comprise a contiguous area form a single such district.

(c) Prior to taking any action to alter the boundaries of any planning district, the council shall adopt a resolution indicating its intention to take the action and, at least 90 days prior to the taking of the action, shall forward a copy of the resolution to all units of government directly affected by the proposed action together with notice of the time and place at which the action will be considered by the council.

(d) If any county or a majority of the cities directly affected by the proposed action objects thereto, and a copy of the resolution of each board of supervisors or city council stating its objection is delivered to the executive office of the Office of Criminal Justice Planning within 30 days following the giving of the notice of the proposed action, the council, or a duly constituted committee thereof, shall conduct a public meeting within the boundaries of the district as they are proposed to be determined. Notice of the time and place of the meeting shall be given to the public and to all units of local government directly affected by the proposed action, and reasonable opportunity shall be given to members of the public and representatives of such units to present their views on the proposed action.

SEC. 8. Section 13902 of the Penal Code is repealed.

SEC. 9. Section 13902 is added to the Penal Code, to read:

13902. Each county placed within a single county planning district may constitute a planning district upon execution of a joint powers agreement or arrangement acceptable to the county and to at least that one-half of the cities in the district which contain at least one-half of the population of the district. Counties placed within a multicounty planning district may constitute a planning district upon

execution of a joint powers agreement or other arrangement acceptable to the participating counties and to at least that one-half of the cities in such district which contain at least one-half of the population of such district. If no combination of one-half of the cities of a district contains at least one-half of the population of the district, then agreement of any half of the cities in such district is sufficient to enable execution of joint powers agreements or other acceptable arrangements for constituting planning districts.

SEC. 10. Section 13903 of the Penal Code is amended to read:

13903. Planning districts may be the recipients of criminal justice and delinquency prevention planning or coordinating funds made available to units of general local government or combinations of units of general local government by federal or state law. Such planning districts shall establish local criminal justice and delinquency prevention planning boards, but shall not be obligated to finance their activities in the event that federal or state support of such activities is lacking.

SEC. 11. Section 13904 of the Penal Code is repealed.

SEC. 12. Section 13904 is added to the Penal Code, to read:

13904. (a) The membership of each local board shall be consistent with state and federal statutes and guidelines; shall be representative of a broad range of community interests and viewpoints; and shall be balanced in terms of racial, sexual, age, economic, and geographic factors. Each local board shall consist of not less than 21 and not more than 30 members, a majority of whom shall be locally elected officials.

(b) The California Council on Criminal Justice shall promulgate standards to ensure that the composition of each board complies with subdivision (a). The council shall annually review the composition of each board, and if it finds that the composition of a local board complies with the standards, it shall so certify. Certification shall be effective for one year; provided that if the membership of a board changes by more than 25 percent during a period of certification, the council may withdraw the certificate prior to its expiration.

(c) If the council determines that the composition of a local board does not comply with the standards, it shall direct the appropriate appointing authority to reappoint the local board and shall again review the composition pursuant to this section after such reappointments are made. The council may void decisions made by such board after such finding and due notice. The council may approve the allocation of planning or action funds only to those districts which have been certified pursuant to this section.

SEC. 13. Section 13905 of the Penal Code is amended to read:

13905. Except as otherwise provided in Section 13904, representatives of the public shall be appointed to local criminal justice and delinquency prevention planning boards, of a number not to exceed the number of representatives of government on that board. At least one-fifth of the membership of such boards shall be representatives of citizens, professional and community

organizations, including organizations directly related to delinquency prevention.

CHAPTER 1231

An act to amend Section 6254 of, and to amend Section 9076, as added by Assembly Bill No. 23 of the 1975–76 Regular Session, of, and to add Section 6258.5 to, the Government Code, relating to public records.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 6254 of the Government Code is amended to read·

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy;

(d) Contained in or related to:

(1) Financial statements, marketing plans and personal information obtained pursuant to the filing of an application, prepared by, on behalf of, or for the use of any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies; or

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1); or

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1); or

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Plant production or mineral reserve data obtained by the

Division of Mines and Geology of the Department of Conservation, and crop, market, or price information obtained by the Division of Marketing Services or the Bureau of Agricultural Statistics of the Department of Food and Agriculture, when such data or information is obtained voluntarily on the assurance of confidentiality.

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional or law enforcement purposes or for the purpose of determining whether administrative or criminal action should be taken to restrain or prosecute purported violations of law or to deny, suspend, or revoke a professional, vocational, or occupational license, certification, or registration; when disclosure of such records of complaints or investigatory or security files would substantially interfere with specific enforcement action;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination;

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;

(j) Library and museum materials (1) transferred to an institution on condition that they remain confidential for a specified period of time or for the duration of a life or lives in being, or (2) the public display of which would endanger the material because of its fragility or would be unreasonably expensive, except that the provisions of this subdivision shall not apply if the presentation of such materials was for purposes of concealing evidence relevant to any judicial, governmental, or administrative proceeding;

(k) Records, the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;

(*l*) In the custody of or maintained by the Governor or employees of the Governor's office employed directly in his office, provided that public records shall not be transferred to the custody of the Governor's office to evade the disclosure provisions of this chapter;

(m) In the custody of or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such

licensing agency to establish his personal qualification for the license, certificate, or permit applied for.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

SEC. 2. Section 6258.5 is added to the Government Code, to read:

6258.5. If the court finds that a public record which is in the physical possession of the public entity has been wrongfully withheld by a public entity, the court may award court costs and reasonable attorney fees to the plaintiff. Such costs and fees shall be paid by the public entity and shall not become a personal liability of any public officer or employee thereof.

SEC. 3. Section 9076 of the Government Code, as added by Assembly Bill No. 23 of the 1975–76 Regular Session, is amended to read:

9076 Any person may institute proceedings against the appropriate rules committee of the Legislature for injunctive or declarative relief in any court of competent jurisdiction to enforce his right to inspect any legislative record or class of legislative records under this article. The times for responsive pleadings and for hearings in such proceedings shall be set by the judge of the court with the object of securing a decision as to such matters at the earliest possible time.

SEC. 4. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

SEC. 5. Section 2 of this act shall become operative only if Assembly Bill No. 23 of the 1975–76 Regular Session is not chaptered, or if Assembly Bill No. 23 is chaptered, if it does not become effective on or before January 1, 1976.

SEC. 6. Section 3 of this act shall become operative only if Assembly Bill No. 23 and this bill are both chaptered and become effective January 1, 1976, and this bill is chaptered after Assembly Bill No. 23.

CHAPTER 1232

An act to amend Section 5750.9 of, and to repeal Sections 5750.8 and 5750.10 of, the Education Code, relating to special schools and classes.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 5750.8 of the Education Code is repealed.

SEC. 2. Section 5750.9 of the Education Code is amended to read:

5750.9. The provisions of this article shall be applicable only to Riverside County and Marin County.

SEC. 3. Section 5750.10 of the Education Code is repealed.

CHAPTER 1233

An act to amend Sections 14452, 14456 and 14459 of the Welfare and Institutions Code, relating to health care benefits.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 14452 of the Welfare and Institutions Code is amended to read:

14452. All subcontracts shall be entered into pursuant to regulations established by the department. All subcontracts shall be in writing, a copy of which shall be transmitted to the department for approval prior to its taking effect.

Each subcontract submitted to the department for approval shall contain the amount of compensation or other consideration which the subcontractor will receive under the terms of the subcontract with the prepaid health plan; provided, however, that these provisions shall not apply to a provider who is employed or salaried by the prepaid health plan. All subcontracts to provide health care benefits, including emergency services, shall include specification of the time and days reserved for services to be provided to enrollees and specification of the service to be provided. All subcontracts for inpatient services shall include specification of the number of beds to be available for enrollees. When the prepaid health plan contracts to provide any of the basic scope of health care benefits through subcontractors, the subcontractors shall meet all of the qualifications required under Section 14450 as appropriate for the services which the subcontractors are required to perform.

Each subcontract shall require that the subcontractor make all of its books and records, pertaining to the goods or services furnished under the terms of the subcontract, available for inspection, examination, or copying by the department during normal working hours at the subcontractor's principal place of business, or at such other place in California as the department shall designate.

Subcontracts between a prepaid health plan and the subcontractor shall be public records on file with the State Department of Health

The names of the officers and stockholders of the subcontractor shall be public records on file with the State Department of Health.

SEC. 2. Section 14456 of the Welfare and Institutions Code is amended to read:

14456. The department shall conduct periodically, but not less than every six months, an onsite review of the level and quality of care, the necessity of the services rendered, and the appropriateness of the services provided by the prepaid health plan. The department shall also review the procedures for regulating utilizations, peer review mechanisms, and other internal procedures for assuring quality of care, and grievances relating to medical care and their disposition. Such review shall be conducted by a panel of qualified experts in reviewing the quality of health services provided, whose members shall include physicians and other health care providers.

The review shall be based on criteria and procedures established by the department and data supplied to the department by the prepaid health plan as required in Section 14308. The criteria and procedures established by the department shall be available to the prepaid health plan, the Legislature, and the public. The director shall report the summaries of surveys of each prepaid health plan conducted under this section in the annual report required in Section 14313.

The department shall be authorized to contract with professional organizations to perform the periodic review required by this section. The department, or its designee, shall make a finding of fact with respect to the ability of the prepaid health plan to provide quality health care services, effectiveness of peer review, and utilization control mechanisms, and the overall performance of the prepaid health plan in providing health care benefits to its enrollees.

SEC. 3. Section 14459 of the Welfare and Institutions Code is amended to read:

14459. The prepaid health plan shall maintain financial records and shall have an annual audit performed by an independent certified public accountant. All certified financial statements shall be filed with the department as soon as practical after the end of the prepaid health plan's fiscal year and in any event, within a period not to exceed 90 days thereafter. These financial statements shall be filed with the department and shall be public records. The department shall have complete authority and responsibility for establishing uniform accounting and financial reporting procedures for prepaid health plans. The annual report required in Section 14313 shall include an itemization of expenditures made by each prepaid health plan for the following categories of expenditures: physician services, inpatient and outpatient hospital services, pharmaceutical services and prescription drugs, dental services, medical transportation services, vision care services, mental health services, laboratory services, X-ray services, enrollee education programs, marketing and enrollment costs, data processing costs, other administrative costs and health service expenditures and any payments made to

subcontractors, and the purposes of the payments, including but not limited to, contributions to election campaigns.

SEC. 5. It is the intent of the Legislature, if this bill and AB 138 are both chaptered and Section 4 of AB 138 becomes effective on January 1, 1976, that the Director of Health in establishing uniform accounting and financial reporting procedures for prepaid health plans, shall coordinate the establishment of such procedures with the Commissioner of Corporations so as to prevent the commissioner and the director from establishing inconsistent procedures or requirements. The department shall perform routine auditing of prepaid health plan contractors and their affiliated subcontractors. The prepaid health plan shall make all of its books and records available for inspection, examination or copying by the department during normal working hours at the prepaid health plan's principal place of business or at such other place in California as the department shall designate. For good cause, the department may grant an exception to the time which annual financial statements are to be submitted to the department.

CHAPTER 1234

An act to add Chapter 4.5 (commencing with Section 18275) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to child abuse and neglect, and making an appropriation therefor.

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975.]

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

SECTION 1. Chapter 4.5 (commencing with Section 18275) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 4.5. CHILD SEXUAL ABUSE PREVENTION DEMONSTRATION CENTER

18275. The Legislature finds that there is a need to develop programs to provide the kinds of innovative strategies and services which will ameliorate, reduce, and ultimately eliminate the trauma of child sexual abuse.

The Legislature also finds that for the purposes of developing and providing such programs and services, and for training of and providing information to city and county personnel throughout the state, a child sexual abuse prevention demonstration center should be established.

18276. The State Department of Health, upon the advice of the review committee established pursuant to Section 18279, shall

contract with the county selected pursuant to Section 18279 for the administration and operation of a child sexual abuse prevention demonstration center.

18277. The functions and goals of the program developed by the center shall be:

(a) Provision of counseling and practical assistance by onsite professionals to sexually abused children and their families, particularly to victims of incest;

(b) Hastening, where in the interests of the child, the process of reconstitution of the family and marriage;

(c) Marshaling and coordinating the services of all agencies responsible for the sexually abused child and his family, as well as other resources to ensure comprehensive, supportive case management;

(d) Employment of a model that fosters self-managed growth, rather than a medical model based on curing disease and that avoids static theory and methods;

(e) Responding to individual physical, emotional, and social needs of clients so that supportive services are individually tailored and applied as long as necessary;

(f) Facilitation of the expansion and autonomy of self-help groups and provision of guidance to the membership such as (1) training in cocounseling, self-management and intrafamily communication techniques; and (2) training in locating community resources;

(g) Informing the public at large and professional agencies about the existence and supportive approach of the program with the aim of encouraging victims and offenders to seek the services of the program voluntarily; and

(h) Development of informational and training materials and seminars to enable emulation or adaptation of the program by other communities, emphasizing the program's stress on cooperation and coordination with all appropriate elements of the criminal justice system and law enforcement system.

18278. The center shall develop training programs for city and county personnel throughout the state relating to the prevention of sexual abuse of children.

18279. (a) The Director of Health shall appoint a review committee of seven members, one to represent the department, two physicians and surgeons, two persons with an extensive background in social or behavioral science, one representing law enforcement, and one member to represent the public. The members of the review committee shall serve for a two-year period and may be reappointed. They shall serve without compensation, but shall receive their necessary travel expenses.

(b) The committee shall establish standards for the expenditure of state funds which are provided for the establishment and support of the center to assure the availability of specialized personnel, resources, and equipment necessary to enable the center to carry out the purposes of this chapter. The director shall select the county

which shall receive state funds to establish and continue such center from a list of eligible counties which shall be submitted to him by the review committee. In making such selection the director and the review committee shall give priority to such counties as may have existing programs relating to the prevention of the sexual abuse of children. Upon establishment of such center the review committee shall periodically appraise its performance and recommend to the director whether it shall receive continuation grants.

18280 The center may seek, receive, and make use of any funds which may be made available from federal, voluntary, philanthropic, or other sources in order to augment any state funds appropriated for the purposes of this chapter.

18281. The director shall submit periodic reports to the Legislature concerning his findings regarding the degree of achievement of the goals of this chapter by the center. One such report shall be submitted no later than six months after the beginning of operation of the center, another no later than one year after the beginning of such operation, and another no later than 18 months after the beginning of such operation.

SEC. 2. There is hereby appropriated from the General Fund to the State Department of Health for the fiscal year 1976–77, the sum of one hundred ninety-three thousand five hundred twenty dollars ($193,520) for the purposes of this chapter. Prior to allocating such funds, the director shall assure that the county and its program have made every reasonable effort for federal funding of such program. The director shall allocate such funds only insofar as federal funds are not obtained. Such funds shall be allocated as follows:

(a) One hundred sixty-eight thousand five hundred twenty dollars ($168,520) to be used for personnel and operations of the center established pursuant to this act; and

(b) Twenty-five thousand dollars ($25,000) to be made available on a statewide basis to cities and counties for the purpose of sending personnel to training programs offered by the center established pursuant to this act in an amount equal to the amount appropriated by the city or county for such purpose. The review committee appointed pursuant to this act shall adopt reasonable rules and regulations to effectuate the purposes of this subdivision.

CHAPTER 1235

An act to repeal Article 6.5 (commencing with Section 5078) of Chapter 1 of Division 5 of the Public Resources Code, to repeal Section 30102 of the Revenue and Taxation Code, to repeal Sections 156.4 and 156.6 of, and to repeal and add Chapter 8 (commencing with Section 2370) of Division 3, of the Streets and Highways Code, and to amend Sections 12804 and 21207 of the Vehicle Code, relating to bikeways, including the financing thereof, and making an appropriation therefor

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

I am deleting the continuous appropriation contained in Streets and Highways Code Section 2393 set forth in Section 6 of Senate Bill No. 244

Funds have already been made available by other bills for bikeways design and construction

With this deletion, I approve Senate Bill No. 244

EDMUND G BROWN JR , Governor

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

SECTION 1. Article 6.5 (commencing with Section 5078) of Chapter 1 of Division 5 of the Public Resources Code is repealed.

SEC. 2. Section 156.4 of the Streets and Highways Code is repealed.

SEC. 3. Section 156.6 of the Streets and Highways Code is repealed.

SEC. 4. Section 30102 of the Revenue and Taxation Code is repealed.

SEC. 5. Chapter 8 (commencing with Section 2370) of Division 3 of the Streets and Highways Code is repealed.

SEC. 6. Chapter 8 (commencing with Section 2370) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 8. CALIFORNIA BIKEWAYS ACT

2370. The Legislature hereby finds and declares that traffic congestion, air pollution, noise pollution, public health, energy shortages, consumer costs, and land-use considerations resulting from a primary reliance on the automobile for transportation are each sufficient reasons to provide for multimodal transportation systems.

2371. It is the intent of the Legislature in enacting this chapter to establish a bicycle transit system. It is the further intent of the Legislature that this transit system shall be designed and developed to achieve the functional commuting needs of the employee, student, businessman, and shopper as the foremost consideration in route selection, to have the physical safety of the bicyclist and bicyclist's property as a major planning component, and to have the capacity to accommodate bicyclists of all ages and skills.

2372. As used in this chapter, "bicycle" means a device upon which any person may ride, propelled exclusively by human power through a belt, chain, or gears, and having either two or three wheels in a tandem or tricycle arrangement.

2373. As used in this chapter, "bikeway" means all facilities that provide primarily for bicycle travel. For purposes of this chapter, bikeways shall be categorized as follows:

(a) Class I bikeways, which provide a completely separated right-of-way designated for the exclusive use of bicycles and pedestrians with crossflows by motorists minimized.

(b) Class II bikeways, which provide a restricted right-of-way designated for the exclusive or semiexclusive use of bicycles with through travel by motor vehicles or pedestrians prohibited, but with vehicle parking and crossflows by pedestrians and motorists permitted.

(c) Class III bikeways, which provide a right-of-way designated by signs or permanent markings and shared with pedestrians or motorists.

2374. The department shall establish recommended minimum general design criteria for the development, planning, and construction of bikeways, including, but not limited to, the design speed of the facility, the space requirements of the bicycle and bicyclist, minimum widths and clearances, grade, radius of curvature, bikeway surface, lighting, drainage, and general safety. In addition, the department, in cooperation with county and city governments, shall establish mandatory minimum safety design criteria for the construction of bikeways.

2375. The department shall establish uniform specifications and symbols for signs, markers, and traffic control devices to control bicycle traffic; to warn of dangerous conditions, obstacles, or hazards; to designate the right-of-way as between bicycles and vehicles; to state the nature and destination of the bikeway; to exclude unauthorized vehicles; and to warn pedestrians and motorists of the presence of bicycle traffic.

2376. All city, county, and regional departments of public works, parks and recreation, planning agencies, or departments, and other local agencies having authority over, or responsibility for the development of, bikeways shall utilize all minimum safety design criteria and uniform specifications and symbols for signs, markers, and traffic control devices established by the department pursuant to Sections 2374 and 2375.

2377. Any city or county may prepare and submit to the department for review and approval its bikeway plan. No plan shall be reviewed and approved which has not received the prior review and the comments of the appropriate transportation planning agency specified in Section 29532 of the Government Code. Such plan shall include, but not be limited to, the following elements:

(a) Route selection, which shall include, but not be limited to, the commuting needs of employees, businessmen, shoppers, and students.

(b) Land use and population density and settlement patterns.

(c) Transportation interface, which shall include, but not be limited to, coordination with other modes of transportation so that a bicyclist may employ multiple modes of transportation in reaching his destination.

(d) Citizen and community involvement in planning.

(e) Flexibility and coordination with long-range transportation planning.

(f) Local government involvement in planning.

(g) Provision for rest facilities, including, but not limited to, restrooms, drinking water, public telephones, and air for bicycle tires.

(h) Provision for parking facilities, including, but not limited to, bicycle parking with theft prevention devices located at, in, or near civic and public buildings, transit terminals, business districts, shopping centers, schools, parks and playgrounds, and other locations where people congregate.

2378. Any city or county which has received approval from the department for its bikeway plan may apply to the department for funds for bikeways and related facilities which will implement such plan. Such funds shall be granted to the applicant on a matching basis which provides for the applicant's furnishing of funding for 10 percent of the total cost of constructing the proposed bikeways and related facilities. Such funds may be used, where feasible, to apply for and match federal grants or loans.

2379. For purposes of providing for a coordinated network of bikeways, a board of supervisors, in cooperation with the cities in the county, may elect to distribute portions of county funds received pursuant to this chapter to cities within the county based on a formula devised by the board.

2380. The governing body of a city, county, or local agency may:

(a) Establish bikeways.

(b) Acquire, by gift, purchase, or condemnation, land, real property, easements, or rights-of-way to establish bikeways.

(c) Establish bikeways pursuant to Section 21207 of the Vehicle Code.

2381. Rights-of-way established for other purposes by cities, counties, or local agencies shall not be abandoned unless the governing body thereof determines that the rights-of-way or parts thereof are not useful as bikeways.

State highway rights-of-way shall not be abandoned until the department first consults with the local agencies having jurisdiction over the areas concerned to determine whether the rights-of-way or parts thereof could be developed as bikeways. If an affirmative determination is made, before abandoning such rights-of-way, the department shall first make such property available to local agencies for development as bikeways in accordance with the terms and procedures of Sections 104.15 and 156.8 of this code and Section 14012 of the Government Code.

2382. The Bicycle Lane Account is continued in existence in the State Transportation Fund, and moneys in the account are continuously appropriated to the department for expenditure for the purposes specified in this chapter. Unexpended moneys shall be retained in the account for use in subsequent fiscal years.

2383. The department shall allocate and disburse moneys from

the Bicycle Lane Account according to the following priorities:

(a) To the department, such amounts as are necessary to administer the provisions of this chapter.

(b) To cities and counties, for bikeways and related facilities, in accordance with the priorities specified in Section 2386. To be eligible for funding, such bikeways shall be approximately parallel to state, county, or city roadways, where the separation of bicycle traffic from motor vehicle traffic will increase the traffic capacity of the roadway.

2384. The Legislature finds and declares that the construction of bikeways pursuant to Section 2383 constitutes a highway purpose under Article XXVI of the California Constitution and justifies the expenditure of highway funds therefor.

2385. The Bikeway Account is hereby created in the State Transportation Fund, and moneys in the account are hereby continuously appropriated to the department for expenditure for the purposes specified in this chapter. Unexpended moneys shall be retained in the account for use in subsequent fiscal years.

2386. The department shall allocate and disburse moneys from the Bikeway Account for projects accomplishing the following purposes, according to the following order of priority:

(a) Construction of class I bikeways in order to complete existing bikeways or bicycle routes that will serve the greatest volume of commuters, including, but not limited to, those routes which connect with existing or proposed mass transit terminals For the purposes of this subdivision, the volume of commuters shall be calculated exclusive of recreational usage and shall include, but not be limited to, employees, businessmen, shoppers, and students.

(b) Construction of other class I bikeways for commuters that are contained in the city or county bikeway plan. Such bikeways shall serve the greatest volume of commuters, as calculated in subdivision (a).

(c) Elimination of hazards to bicyclists on existing bikeways or bicycle routes.

(d) Provision of bicycle parking facilities with theft prevention devices located at, in, or near civic or public buildings, transit terminals, business districts, shopping centers, and schools.

(e) Any other projects which in the judgment of the department will best implement the city or county bikeway plan and the intent of the Legislature expressed in this chapter.

2387. The department shall not finance projects with moneys in accounts created pursuant to this chapter which could be financed appropriately pursuant to the provisions of Article 3.5 (commencing with Section 156) of Chapter 1 of Division 1, or fully financed with federal financial assistance.

2388. No funds received pursuant to this chapter shall be expended for the maintenance of any bikeway.

2389. If available funds are insufficient to finance completely any project whose eligibility is established pursuant to Section 2383 or

2386, such project shall retain its priority for allocations in subsequent fiscal years.

2390. No county or city shall receive more than 25 percent of the total of moneys appropriated to either the Bicycle Lane Account or the Bikeway Account in a single fiscal year.

2391. The department may enter into an agreement with any city or county concerning the handling and accounting of moneys disbursed pursuant to this chapter, including procedures to permit prompt payment for the work accomplished.

2392. The department, in cooperation with county and city governments, shall adopt and promulgate necessary rules and regulations for implementing the provisions of this chapter.

2393. The sum of nine million dollars ($9,000,000) is hereby appropriated annually, for each fiscal year, from the General Fund to the Bikeway Account in the State Transportation Fund

2394. The Legislative Analyst shall review the implementation of this act for the purpose of evaluating to what extent the act's purposes have been effectuated and shall report thereon to the fiscal committees of the Legislature on January 1, 1979.

SEC. 7 Section 12804 of the Vehicle Code, as amended by Section 1 of Chapter 162 of the Statutes of 1975, is amended to read:

12804. (a) The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, the ability to read and understand simple English used in highway traffic and directional signs, and his understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation. The applicant shall be required to give an actual demonstration of his ability to exercise ordinary and reasonable control in operating a motor vehicle by driving the same under the supervision of an examining officer and submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive, except that the department may waive the driving test part of the examination of an applicant who holds a valid license issued by another state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. The examination shall also include a test of the hearing and eyesight of the applicant and such other matters as may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code. The examination for a class 1 or class 2 license under subdivision (b) of this section shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine. The report shall be on a form approved by the department or by the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation. In establishing the requirements consideration may be given to the

standards presently required of motor carrier drivers by the Federal Highway Administration of the United States Department of Transportation. Any physical defect of the applicant which in the opinion of the department is compensated to insure safe driving ability shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive:

(1) Class 1. Any combination of vehicles and includes the operation of all vehicles under class 2 and class 3.

(2) Class 2. Any bus, any "farm labor truck," any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3.

(3) Class 3. A three-axle housecar, any two-axle vehicle, and any such housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, except a bus, two-wheel motorcycle, or "farm labor truck."

(4) Class 4. Any two-wheel motorcycle. Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2 or 3 license upon completion of appropriate examination.

(c) Class 1 and class 2 drivers' licenses shall be valid for operating class 1 or class 2 vehicles only when a medical certificate approved by the department or the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation is in the licensee's immediate possession which has been issued within two years of the date of the operation of such vehicle, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed. A person holding a valid class 1 or class 2 driver's license on May 3, 1972, may operate class 1 or class 2 vehicles without a medical certificate until such time as the license expires.

(d) The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications when such certificate is issued by an employer of the applicant provided the applicant has first qualified for a class 3 license and also met the other examination requirements for the license for which he is applying. Such certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he is applying.

(e) The department may accept a certificate of competence in lieu of a driving test on class 4 applications when such certificate is issued by a law enforcement agency for its officers who operate class 4 vehicles in their duties provided the applicant has also met the other examination requirements for the license for which he is applying.

SEC. 7.5. Section 12804 of the Vehicle Code, as amended by

Section 1 of Chapter 162 of the Statutes of 1975, is amended to read:

12804. (a) The examination shall include a test of the applicant's knowledge and understanding of the provisions of this code governing the operation of vehicles upon the highways, the ability to read and understand simple English used in highway traffic and directional signs, and his understanding of traffic signs and signals, including the bikeway signs, markers, and traffic control devices established by the Department of Transportation. The applicant shall be required to give an actual demonstration of his ability to exercise ordinary and reasonable control in operating a motor vehicle by driving the same under the supervision of an examining officer and submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive, except that the department may waive the driving test part of the examination of an applicant who holds a valid license issued by another state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico. The examination shall also include a test of the hearing and eyesight of the applicant and such other matters as may be necessary to determine the applicant's mental and physical fitness to operate a motor vehicle upon the highways and whether any ground exists for refusal of a license under this code. The examination for a class 1 or class 2 license under subdivision (b) of this section shall also include a report of a medical examination of the applicant given not more than two years prior to the date of the application by a physician licensed to practice medicine. The report shall be on a form approved by the department or by the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation. In establishing the requirements consideration may be given to the standards presently required of motor carrier drivers by the Federal Highway Administration of the United States Department of Transportation. Any physical defect of the applicant which in the opinion of the department is compensated to insure safe driving ability shall not prevent the issuance of a license to the applicant.

(b) In accordance with the following classifications any applicant for a driver's license shall be required to submit to an examination appropriate to the type of motor vehicle or combination of vehicles he desires a license to drive:

(1) Class 1. Any combination of vehicles and includes the operation of all vehicles under class 2 and class 3.

(2) Class 2. Any bus, any "farm labor truck," any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3.

(3) Class 3. A three-axle housecar, any two-axle vehicle, and any such housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, except a bus, two-wheel motorcycle, motor-driven cycle, or "farm labor truck."

(4) Class 4. Any two-wheel motorcycle, any motor-driven cycle,

or any motorized bicycle. Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2 or 3 license upon completion of appropriate examination.

(c) Class 1 and class 2 drivers' licenses shall be valid for operating class 1 or class 2 vehicles only when a medical certificate approved by the department or the Federal Highway Administration or the Federal Aviation Administration of the United States Department of Transportation is in the licensee's immediate possession which has been issued within two years of the date of the operation of such vehicle, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed. A person holding a valid class 1 or class 2 driver's license on May 3, 1972, may operate class 1 or class 2 vehicles without a medical certificate until such time as the license expires.

(d) The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications when such certificate is issued by an employer of the applicant provided the applicant has first qualified for a class 3 license and also met the other examination requirements for the license for which he is applying. Such certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he is applying.

(e) The department may accept a certificate of competence in lieu of a driving test on class 4 applications when such certificate is issued by a law enforcement agency for its officers who operate class 4 vehicles in their duties provided the applicant has also met the other examination requirements for the license for which he is applying.

(f) Notwithstanding the provisions of subdivision (b), any person holding a valid California driver's license of any class may operate a motorized bicycle without taking any special examination for the operation of a motorized bicycle, and without having a class 4 endorsement on such license.

SEC. 8. Section 21207 of the Vehicle Code is amended to read:

21207. This chapter does not prevent local authorities from establishing, by ordinance or resolution, bicycle lanes separated from any vehicular lanes upon highways, other than state highways as defined in Section 24 of the Streets and Highways Code and county highways established pursuant to Article 5 (commencing with Section 1720) of Chapter 9 of Division 2 of the Streets and Highways Code, and from regulating the operation, and use of bicycles and vehicles with respect to such bicycle lanes.

Bicycle lanes established pursuant to this section shall be constructed in compliance with provisions pertaining to bikeways in Section 2376 of the Streets and Highways Code.

SEC. 8.5. Section 21207 of the Vehicle Code is amended to read.

21207. This chapter does not prevent local authorities from establishing, by ordinance or resolution, bicycle lanes separated from any vehicular lanes upon highways, other than state highways as

defined in Section 24 of the Streets and Highways Code and county highways established pursuant to Article 5 (commencing with Section 1720) of Chapter 9 of Division 2 of the Streets and Highways Code, if such bicycle lanes installed after January 1, 1976, conform, as provided in Section 2376 of the Streets and Highways Code, to the minimum safety design criteria established by the Department of Transportation in cooperation with county and city governments and to the uniform specifications and symbols for signs, markers, and traffic control devices.

SEC. 9. It is the intent of the Legislature that the General Fund moneys appropriated by Section 2393 of the Streets and Highways Code shall be derived first from the revenues accruing to the General Fund by the repeal of Section 30102 of the Revenue and Taxation Code by this act.

SEC. 10. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because there are no state-mandated local costs in this act and any revenue loss implied herein is not reimbursable under Section 2231 of the Revenue and Taxation Code.

SEC 11. It is the intent of the Legislature, if this bill and Senate Bill No. 671 are both chaptered and amend Section 12804 of the Vehicle Code, and this bill is chaptered after Senate Bill No. 671, that the amendments to Section 12804 proposed by both bills be given effect and incorporated in Section 12804 in the form set forth in Section 7.5 of this act. Therefore, Section 7.5 of this act shall become operative only if this bill and Senate Bill No. 671 are both chaptered, both amend Section 12804, and Senate Bill No. 671 is chaptered before this bill, in which case Section 7 of this act shall not become operative.

SEC. 12. It is the intent of the Legislature, if this bill and Senate Bill No. 939 are both chaptered and become effective January 1, 1976, both bills amend Section 21207 of the Vehicle Code, and this bill is chaptered after Senate Bill No. 939, that the amendments to Section 21207 proposed by both bills be given effect and incorporated in Section 21207 in the form set forth in Section 8.5 of this act. Therefore, Section 8.5 of this act shall become operative only if this bill and Senate Bill No. 939 are both chaptered and become effective January 1, 1976, both amend Section 21207, and this bill is chaptered after Senate Bill No. 939, in which case Section 8 of this act shall not become operative.

CHAPTER 1236

An act to add Section 9902.8 to, and to add Chapter 21 5 (commencing with Section 9999) to Division 3 of the Business and Professions Code, relating to musician booking agencies

[Approved by Governor September 30, 1975 Filed with Secretary of State September 30, 1975]

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

SECTION 1. Section 9902.8 is added to the Business and Professions Code, to read:

9902 8. The provisions of this chapter shall not apply to any person licensed as a musician booking agency pursuant to Chapter 21.5 (commencing with Section 9999), except where a musician booking agency advises and engages in activities relating to the procurement of employment for a musical artist or engages in activities relating to the procurement of employment for a musical artist such agency shall be subject to Section 9970, 9975, 9983, 9984, 9984.5 and 9995.

SEC. 2 Chapter 21.5 (commencing with Section 9999) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 21.5. MUSICIAN BOOKING AGENCIES

9999. As used in this chapter, "fee" means:

(a) Any money or other valuable consideration paid or promised to be paid for services rendered or to be rendered by any person conducting the business of a musician booking agency under this chapter.

(b) Any money received by any person in excess of that which has been paid out by him for transportation, transfer of baggage, or board and lodging for any applicant for employment.

9999.1. As used in this chapter:

(a) "License" means a license issued by the Bureau of Employment Agencies to carry on the business of a musician booking agency under this chapter.

(b) "Licensee" means a person who holds a valid, unrevoked, and unforfeited license under this chapter.

(c) "Bureau" means the Bureau of Employment Agencies.

9999.2. "Musician booking agency" means any agency which advises musical artists in their professional careers and which engages in activities relating to the procurement of employment or engagements for musical artists seeking employment or engagements, or which advises musical artists in their professional careers, or which engages in activities relating to the procurement of employment or engagements for musical artists where a fee is extracted or attempted to be collected for such services.

9999.3. "Employment or engagement" means employment whereby a musician performs musical talent.

9999.4. "Musical artist" means one or more persons or group of persons who in the course of their performance work with one or more musical instruments.

9999.5. No person shall engage in or carry on the occupation of a musician booking agent without first procuring a license therefor from the bureau. Such license shall be posted in a conspicuous place in the office of the licensee.

The bureau may issue an interim license not to exceed three months in the event of a licensee's death or in the event of the sale of a licensee's business.

9999.6. A written application for a license shall be made to the bureau in the form prescribed by it and shall state:

(a) The name and address of the applicant, the name and address of each partner of the applicant, and the name and address of each officer of corporations listed in the application.

(b) The street and number of the building or place where the business of the musician booking agency is to be conducted.

(c) The business or occupation engaged in by the applicant for at least two years immediately preceding the date of application.

(d) The proposed name of the musician booking agency.

(e) Such questions and information as will assure the bureau of the applicant's eligibility to hold license, as established in Section 9999.8.

(f) The names and addresses of all persons, except bona fide employees on commission or stated salaries, who are financially interested, either as partners, associates, profit sharers, or anyone who receives any part of the income directly, in the operation of the agency in question, together with the amount of their respective interests.

(g) The name and address of the candidate, or candidates, for examination. The candidate for examination shall be one of the persons named in subdivision (a) above. In the event of partnerships or corporations, each partner, or officer, may be a candidate for examination.

(h) Such other information as the bureau may require.

9999.7. To be eligible for a license, the applicant shall be:

(a) At least 18 years of age.

(b) A person whose license has not been revoked within three years from the date of application.

(c) Show financial responsibility.

(d) Successfully pass a written examination.

9999.8. (a) Upon receipt of an application for a license, the bureau shall cause an investigation to be made as to the character and responsibility of the applicant and of the premises designated in such application as the place in which it is proposed to conduct a musician booking agency. The bureau shall have the authority to approve or reject any proposed premises if, in its opinion, such

premises would endanger the health, welfare, safety or morals of applicants for employment The bureau shall adopt regulations specifying the type of premises which it will reject for these reasons.

(b) The bureau shall deny a license to an applicant if such applicant is an officer, director, stockholder, partner, employee of, or has ownership in or control of, any other person, firm, or corporation which acts as a representative of any musical artist in any capacity other than purely professional capacity as attorney or accountant.

(c) The bureau may deny a license to an applicant who has made any false statement on the license application.

9999.9. The bureau, upon proper notice and hearing, may refuse to grant a license or may refuse to approve the sale, transfer, or gift of a musician booking agency. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the bureau shall have all the power granted therein.

9999.10. Each license shall run to and including the 31st day of March next following the date thereof, unless sooner revoked by the bureau, and may be renewed biennially upon the filing of an application for renewal, a renewed bond, and the payment of the biennial license fee, but the bureau may demand that a new application and bond be submitted.

9999 11. All applications for renewal shall state the names and addresses of all persons, except bona fide employees on stated salaries, who are financially interested either as partners, associates or profit sharers, in the operation of a musician booking agency.

9999 12. The bureau, subject to the approval of the director, shall charge the following fees:

(a) A filing fee which shall be set by the bureau at not more than fifty dollars ($50) for each new application for license.

(b) A filing fee which shall be set by the bureau at not more than one hundred dollars ($100) for each new application for a branch office license.

(c) A filing fee which shall be set by the bureau at not more than fifty dollars ($50) for application for examination or reexamination.

(d) A filing fee which shall be set by the bureau at not more than fifty dollars ($50) for application to transfer or assign a license.

(e) An annual license fee which shall be set by the bureau at not more than two hundred dollars ($200) for a musician booking agency

(f) An annual license fee which shall be set by the bureau at not more than one hundred dollars ($100) for license of each branch office.

(g) An interim musician booking agency license fee which shall be set by the bureau at not more than one hundred dollars ($100).

(h) A reinstatement fee of two hundred dollars ($200), in addition to the current renewal fee, to reinstate a license revoked or suspended

9999.13. A musician booking agency shall deposit with the

bureau, prior to the issuance or renewal of a license, a surety bond in the penal sum of one thousand dollars ($1,000).

9999.14 Such surety bonds shall be payable to the people of the State of California, and shall be conditioned that the person applying for the license will comply with this chapter and will pay all sums due any individual or group of individuals when such person or his representative or agent has received such sums, and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud, deceit, or any unlawful acts or omissions of the licensed musician booking agency, or its agents or employees, while acting within the scope of their employment.

9999.15. If any licensee fails to file a new bond with the bureau within 30 days after notice of cancellation by the surety of the bond required under Section 9999.13, the license issued to the principal under the bond is suspended until such time as a new surety bond is filed. A person whose license is suspended pursuant to this section shall not carry on the business of a musician booking agency during the period of such suspension.

9999.16. The bureau may revoke or suspend any license when it is shown that:

(a) The licensee or his agent has violated or failed to comply with any of the provisions of this chapter, or

(b) The conditions under which the license was issued have changed or no longer exist.

Any disciplinary action by the bureau against a licensee shall occur within three years from the date of a licensee's alleged unlawful act

9999.17. Before revoking or suspending any license, the bureau shall afford the holder of such license an opportunity to be heard in person or by counsel. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the bureau shall have all the powers granted therein.

9999.18. Every musician booking agency shall submit to the bureau a form or forms of contract to be utilized by such musician booking agency in entering into written contracts with musical artists for the employment of the services of such musician booking agency by such musical artists, and secure the approval of the bureau thereof. Such approval shall not be withheld as to any proposed form of contract unless such proposed form of contract is unfair, unjust and oppressive to the musical artist.

9999.19. Every person engaged in the business of a musician booking agency shall file with the bureau a schedule of fees to be charged and collected in the conduct of such business, and shall also keep a copy of such schedule posted in a conspicuous place in the office of such musician booking agency. No fee charged or collected shall be in excess of the fee as scheduled. Changes in the schedule may be made from time to time, but no change shall become effective until seven days after the date of filing thereof with the bureau, and until posted for not less than seven days in a conspicuous

place in the office of such musician booking agency.

9999.20. All books, records, and other papers kept pursuant to this chapter by any musician booking agency shall be open at all reasonable hours to the inspection of the bureau and its agents Every musician booking agency shall furnish to the bureau upon request a true copy of such books, records, and papers or any portion thereof, and shall make such reports as the bureau prescribes.

The bureau shall on its own motion cause an investigation to be made of any licensee when it has reasonable cause to believe any provision of this chapter is being violated.

9999.21. The bureau may, in accordance with the provisions of Chapter 4 (commencing with Section 11370), Part 1, Division 3, Title 2 of the Government Code, adopt, amend, and repeal such rules and regulations as are reasonably necessary for the purpose of enforcing and administering this chapter and as are not inconsistent with this chapter.

9999.22. No licensee shall sell, transfer or give away any interest in or the right to participate in the profits of the musician booking agency without the written consent of the bureau. If the bureau fails to notify an applicant of its refusal to approve a sale, transfer, or gift within 30 days of receipt of an applicant's request for consent, the bureau shall be deemed to have given its consent to such sale, transfer, or gift. A violation of this section shall constitute a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisonment for not more than 60 days, or both.

9999.23. No musician booking agency shall knowingly issue a contract for employment containing any term or condition which, if complied with, would be in violation of law, or attempt to fill an order for help to be employed in violation of law.

9999.24. No musician booking agency shall publish or cause to be published any false, fraudulent, or misleading information, representation, notice, or advertisement. All advertisements of a musician booking agency by means of cards, circulars, or signs, and in newspapers and other publications, and all letterheads, receipts, and blanks shall be printed and contain the licensed name and address of the musician booking agency and the words "musician booking agency." No musician booking agency shall give any false information or make any false promises or representations concerning an engagement or employment to any applicant who applies for an engagement or employment.

9999.25. No musician booking agency shall send or cause to be sent any musical artist as an employee to any house of ill fame, to any house or place of amusement for immoral purpose, to places resorted to for the purposes of prostitution, or to gambling houses, the character of which places the musician booking agency could have ascertained upon reasonable inquiry.

9999 26. No musician booking agency shall send any minor under the age of 18 years to any saloon or place where intoxicating liquors

are sold to be consumed on the premises.

9999.27. No musician booking agency shall accept any application for employment made by or on behalf of any child, or shall place or assist in placing any such child in any employment whatever in violation of Part 4 (commencing with Section 1171) of Division 2 of the Labor Code.

9999.28. No musician booking agency shall knowingly secure employment for a musical artist in any place where a strike, lockout, or other labor trouble exists, without notifying the musician of such conditions.

9999.29. No musician booking agency shall divide fees with an employer, or other employee of an employer.

9999.30. No musician booking agency shall act as an employer of musical artists for the purposes of circumventing the intent of this chapter.

9999.31. No musician booking agency or any of its owners or employees shall be an officer, director, stockholder, partner, employee of, or have ownership in or control of, any other person, firm, or corporation which acts as a representative of any musical artist in any capacity other than purely professional capacity as attorney or accountant

9999.32 No musician booking agency shall engage in any business activity in connection with which the services of musical artists are employed, engaged, or otherwise dealt with, or otherwise engage in any activity which may involve a conflict of interest between the musician booking agency and musical artists.

9999.33. No musician booking agency, or any employee of such agency, shall call itself "entertainment director," "entertainment consultant," or any other similar title.

9999.34. Persons contracting for entertainment services for fairs sponsored by a state or local agency, district, county, city and county, or other local entity shall be exempt from the provisions of this chapter.

9999.35. In the event that a musician booking agency shall collect from a musical artist a fee, deposit, or expenses for obtaining employment for the musical artist, and the musical artist shall fail to procure such employment, or the musical artist shall fail to be paid for such employment, such musician booking agency shall, upon demand therefor, repay to the musical artist the fee and expenses so collected. Unless repayment thereof is made within 48 hours after demand therefor, the musician booking agency shall pay to the musical artist an additional sum equal to the amount of the fee

9999.36. Any person holding a valid, unrevoked, and unforfeited employment agency license may receive a musicians' booking agency license without examination provided such person makes written application for license pursuant to Section 9999.6 and meets all requirements of subdivisions (a), (b), and (c) of Section 9999.7

9999 37. The provisions of this chapter shall not apply to any person licensed as an artists' manager pursuant to Chapter 4

(commencing with Section 1700.1) of Part 6 of Division 2 of the Labor Code.

9999.38. Any person performing musician booking agency services without possessing a valid musician booking agency license issued pursuant to this chapter is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisonment for not more than 60 days, or both.

9999.39. This chapter shall be known and may be cited as the Whetmore Musician Booking Agency Act of 1975.

SEC. 3. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 1237

An act to amend Section 22004 of the Elections Code, relating to elections.

[Became law without Governor's signature October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 22004 of the Elections Code is amended to read:

22004. A county may by ordinance or resolution limit campaign expenditures or contributions in county elections.

CHAPTER 1238

An act to amend Sections 68514, 70045.6, and 72604 of, and to add Sections 68516, 70056.6, and 72604.1 to, the Government Code, relating to courts.

[Became law without Governor's signature October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 68516 is added to the Government Code, to read:

68516. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall

be filed with the council by each official reporter and official reporter pro tempore of any court located in Kern County. Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the Board of Supervisors of Kern County and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period;

(2) The fees charged and the fees collected for such transcripts;

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts;

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose

SEC. 2. Section 70045.6 of the Government Code is amended to read:

70045.6. In Kern County each regular reporter shall be paid a monthly salary in accordance with the following salary range of five annual steps: one thousand five hundred eleven dollars ($1,511) a month for the first year; one thousand five hundred eighty-seven dollars ($1,587) a month for the second year; one thousand six hundred sixty-six dollars ($1,666) a month for the third year; one thousand seven hundred forty-nine dollars ($1,749) a month for the fourth year; and one thousand eight hundred thirty-six dollars ($1,836) a month for the fifth and succeeding years. Each pro tempore official reporter shall be paid fifty-five dollars ($55) a day for the days he actually is on duty under order of the court.

SEC. 2.5. Section 70056.6 is added to the Government Code, to read:

70056.6. In Kern County, the fee required by Section 70053 shall be twenty dollars ($20).

SEC. 3. Section 72604 of the Government Code is amended to read:

72604. Notwithstanding the provisions of Sections 69947 to 69953, inclusive, of the Government Code, or any other provision of law in conflict herewith, in each municipal court in counties having a population of 2,000,000 inhabitants, or over, as determined by the 1970 federal census, except in municipal court districts where a statute provides otherwise, the official reporter and official reporters pro tempore in those judicial districts governed by this section shall receive for their services the same per diem fee paid to official court reporters pro tempore of the Superior Court of Los Angeles County. All other fees of such reporters for transcription shall be as provided in Sections 69947 to 69953 of the Government Code

SEC. 4. Section 72604 1 is added to the Government Code, to read:

72604.1. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of those judicial districts in a county governed by the provisions of Section 72604.

(b) The Judicial Council shall submit an annual report to the board of supervisors of any such county and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period.

(2) The fees charged and the fees collected for such transcripts.

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts.

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose.

SEC. 5. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide, basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Kern and Los Angeles Counties is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in these counties in view of their submitted requests for adjustments in the compensation provided to court reporters in such counties.

SEC. 6. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act, because this act is in accordance with the request of local government entities which desires legislative authority to implement the expenditures specified in this act.

CHAPTER 1239

An act to amend Sections 23151 and 24503 of, and to repeal Section 23152 of, the Education Code, to amend Section 1348 of the Fish and Game Code, to amend Section 4054 of the Food and Agricultural Code, to amend Sections 8324, 14662, 14715, 15853, 15854, and 54093 of, to add Section 15855 to, and to repeal Sections 14661, 15854.1, 15855, 15856, 15858, and 15859 of, the Government Code, to amend Section 437 of, and to repeal Section 438 of, the Military and Veterans Code, to amend Sections 5006 and 6808 of, and to repeal Section 5006.1 of, the Public Resources Code, to amend Section 21633 of, and to repeal Section 21635 of, the Public Utilities Code, to amend Sections 102, 103.5, 104.15, 135, 146.5, 887.2, 30401, and 30402 of, and to repeal Sections 103, 104.1, 104.2, 104.3, 104.7, 30403, 30404, and 30405 of, the Streets and Highways Code, and to amend Sections 250, 252, 8304, 8590, 8593, and 11580 of, and to repeal Sections 251, 251.1, 254, 255, 256, 8590.1, 8594, 8595, 11575.1, 11575.2, 11581, 11582, 11583, and 11587 of, the Water Code, relating to acquisition of property for public use.

[Became law without Governor's signature October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1 Section 23151 of the Education Code is amended to read:

23151. The Regents of the University of California may acquire by eminent domain any property necessary to carry out any of the powers or functions of the University of California.

SEC. 2. Section 23152 of the Education Code is repealed.

SEC. 3. Section 24503 of the Education Code is amended to read·

24503. The board, for the purposes of this article (commencing with Section 24501), has power and is hereby authorized, in addition to and amplification of all other powers conferred upon said board by the Constitution of the State of California or by any statute of the State of California:

(a) To acquire subject to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code, by grant, purchase, gift, devise, or lease, and to hold and use any real or personal property necessary or convenient or useful for the carrying on of any of its powers pursuant to the provisions of this article (commencing with Section 24501).

(b) To construct, operate and control any project.

(c) To fix rates, rents or other charges for the use of any project acquired, constructed, equipped, furnished, operated or maintained by the board, or for services rendered in connection therewith, and to alter, change or modify the same at its pleasure, subject to any contractual obligation which may be entered into by the board with

respect to the fixing of such rates, rents or charges.

(d) To enter into covenants to increase rates or charges from time to time as may be necessary pursuant to any such contract or agreement with the holders of any bonds of the board.

(e) At any time and from time to time, with the approval of the State Board of Control, to issue revenue bonds in order to raise funds for the purpose of establishing any project or of acquiring lands for any project, or of acquiring, constructing, improving, equipping or furnishing any project, or of refinancing any project, including payment of principal and interest on revenue bond anticipation notes, or for any combination of such purposes, which bonds may be secured as hereinafter provided.

(f) At any time and from time to time, with the approval of the State Board of Control, to issue revenue bond anticipation notes pursuant to Section 24503.1.

(g) To adopt such rules and regulations as may be necessary to enable the board to exercise the powers and to perform the duties conferred or imposed upon the board by this article (commencing with Section 24501).

(h) Nothing contained in this section or elsewhere in this article shall be construed directly or by implication to be in anywise in derogation of or in limitation of powers conferred upon or existing in the board by virtue of provisions of the Constitution or statutes of this state.

SEC. 4. Section 1348 of the Fish and Game Code is amended to read:

1348. The board shall authorize the acquisition of such lands, rights in land, water, or water rights as may be necessary to carry out the purposes of this chapter. The board may authorize such acquisition by the department, but the department shall not acquire any of such property by eminent domain proceedings except such property as may be necessary to provide access roads or rights-of-way to areas to be used for fishing the coastal waters of the Pacific Ocean, and then only if the board of supervisors of the affected county has agreed by resolution to such proceedings for each parcel of land and has further agreed by resolution to maintain the road or right-of-way The board may authorize such acquisition by the State Public Works Board, which is hereby empowered to effect such acquisitions pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code.

SEC. 5. Section 4054 of the Food and Agricultural Code is amended to read:

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

by eminent domain pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code.

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

Notwithstanding any provision of Sections 14256 and 14792 of the Government Code, the board of an association, by resolution adopted by vote of two-thirds of all its members, may purchase materials and lease equipment for not in excess of twenty thousand dollars ($20,000) when such purchase or lease is made in conjunction with donated labor construction improvements on the grounds of the association.

SEC. 6 Section 8324 of the Government Code is amended to read·

8324. The Department of Commerce may do any or all things which it may deem necessary, useful, or convenient in carrying out the objects and purposes of this chapter. The power of eminent domain may not be exercised nor may bonds of any nature be issued to carry out the objects and purposes of this chapter.

SEC. 7. Section 14661 of the Government Code is repealed.

SEC. 8. Section 14662 of the Government Code is amended to read:

14662. The Director of General Services may acquire any easements or rights-of-way which he determines to be necessary for the proper utilization of real property owned or being acquired by the state.

This section does not apply to land, easements, or rights-of-way to be acquired by the Department of Transportation.

SEC. 9. Section 14715 of the Government Code is amended to read:

14715. The Veterans' Home of California, for all purposes including irrigation and domestic, shall have the first and prior right to all available water stored in Rector Dam on state property in Napa County. Said right shall be prior to any allocation of said waters for the use of any other state institutions, including the State Game Farm and the Napa State Hospital. In the event that there is more water available than necessary to meet the requirements of the Veterans' Home of California, the department may take and conduct from the dam such quantity of surplus water as may be determined by the Department of Water Resources to be necessary for the use of the Napa State Hospital and other state establishments located in the County of Napa, including the State Game Farm, and rights-of-way may be acquired, pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2, by purchase, lease, or condemnation for that purpose.

SEC. 10. Section 15853 of the Government Code is amended to read:

15853. (a) The board is authorized to select and acquire, in the name of and on behalf of the state, with the consent of the state agency concerned, the fee or any lesser right or interest in any real property necessary for any state purpose or function.

(b) Where moneys are appropriated by the Budget Act for any fiscal year or by any other act for the acquisition of land or other real property, either (1) subject to the provisions of the Property Acquisition Law or (2) for any state agency for whom property is acquired by the board, such moneys and acquisitions shall be subject to the provisions of this part and such moneys shall be expended in accordance with the provisions of this part, notwithstanding any other provisions of law.

(c) The board may acquire furnishings which the owner thereof agrees to sell and which are contained within improvements acquired by the board. Cost of acquisition of such furnishings shall be charged to the appropriation available for acquisition of the real property.

SEC. 11. Section 15854 of the Government Code is amended to read:

15854. Property shall be acquired pursuant to this part by condemnation in the manner provided for in Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure, and all money paid from any appropriation made pursuant to this part shall be expended only in accordance with a judgment in condemnation or with a verdict of the jury or determination by the trial court fixing the amount of compensation to be paid. This requirement shall not apply to any of the following:

(a) Any acquisitions from the federal government or its agencies.

(b) Any acquisitions from the University of California or other state agencies.

(c) The acquisitions of parcels of property, or lesser estates or interests therein, for less than five thousand dollars ($5,000), unless part of an area made up of more than one parcel which in total would cost more than five thousand dollars ($5,000) which the board by resolution exempts from this requirement.

(d) Any acquisition as to which the owner and the state have agreed to the price and the State Public Works Board by unanimous vote determines that such price is fair and reasonable and acquisition by condemnation is not necessary.

(e) Any acquisition as to which the owner and the State Public Works Board have agreed to arbitrate the amount of the compensation to be paid in accordance with Chapter 12 (commencing with Section 1273.010) of Title 7 of Part 3 of the Code of Civil Procedure.

SEC. 12. Section 15854.1 of the Government Code is repealed.

SEC. 13. Section 15855 of the Government Code is repealed.

SEC. 14. Section 15855 is added to the Government Code, to read:

15855. (a) Notwithstanding any other provision of law, except as

provided in subdivision (b), the State Public Works Board is the only state agency that may exercise the power of eminent domain to acquire property needed by any state agency for any state purpose or function.

(b) Subdivision (a) does not affect or limit the right of the Department of Transportation, Department of Water Resources, State Lands Commission, State Reclamation Board, Hastings College of the Law, or the Regents of the University of California to exercise the power of eminent domain. Subdivision (a) does not affect or limit the exercise of the power of eminent domain by the Department of Fish and Game pursuant to Section 1348 of the Fish and Game Code.

SEC 15. Section 15856 of the Government Code is repealed.

SEC. 16. Section 15858 of the Government Code is repealed.

SEC. 17. Section 15859 of the Government Code is repealed.

SEC. 18. Section 54093 of the Government Code is amended to read:

54093 The Department of Parks and Recreation, on behalf of the state, may acquire by appropriate means easements in property owned, operated or controlled by any city, county or other local agency in order to provide free public access to any public beach. However, any such easement shall terminate if the property is developed by the city, county or other public agency in a manner which would not be compatible with the use of such easement for access purposes and if the city, county or other public agency refunds to the state the amount of money the state paid for such easement.

SEC. 19. Section 437 of the Military and Veterans Code is amended to read:

437. The Adjutant General, in the name of the people of the State of California, with the approval of the Department of General Services, may acquire any property necessary for armory purposes.

SEC. 20. Section 438 of the Military and Veterans Code is repealed.

SEC. 21. Section 5006 of the Public Resources Code is amended to read:

5006. The department, with the consent of the Department of Finance, may acquire title to or any interest in real and personal property which the department deems necessary or proper for the extension, improvement, or development of the state park system.

SEC. 22. Section 5006.1 of the Public Resources Code is repealed.

SEC. 24. Section 6808 of the Public Resources Code is amended to read:

6808. The commission, if it deems such action for the best interests of the state, may condemn, acquire, and possess in the name of the state any right-of-way or easement, including surface rights, for any operation authorized or contemplated under this chapter, that may be necessary for the development and production of oil and gas from state-owned land and for their removal, transportation, storage, and sale.

SEC 25. Section 21633 of the Public Utilities Code is amended to read:

21633. For the purposes of this article, the department, by purchase, gift, devise, lease, condemnation, or otherwise, may acquire real or personal property, or any interest therein, including any property described in Section 21652.

SEC. 26. Section 21635 of the Public Utilities Code is repealed.

SEC. 27. Section 102 of the Streets and Highways Code is amended to read:

102. In the name of the people of the State of California, the department may acquire by eminent domain any property necessary for state highway purposes.

SEC. 28. Section 103 of the Streets and Highways Code is repealed.

SEC. 29. Section 103.5 of the Streets and Highways Code is amended to read:

103.5. Subject to Sections 1240.670, 1240.680, and 1240.690 of the Code of Civil Procedure, the real property which the department may acquire by eminent domain, or otherwise, includes any property dedicated to park purposes, however it may have been dedicated, when the commission has determined by resolution that such property is necessary for state highway purposes.

SEC. 30. Section 104.1 of the Streets and Highways Code is repealed.

SEC. 31. Section 104.2 of the Streets and Highways Code is repealed.

SEC. 32. Section 104.3 of the Streets and Highways Code is repealed.

SEC. 33 Section 104.7 of the Streets and Highways Code is repealed.

SEC. 34. Section 104.15 of the Streets and Highways Code is amended to read:

104.15. Whenever land has been acquired pursuant to former Section 104.1 or pursuant to Article 5 (commencing with Section 1240.410) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure, the department may, in its discretion, lease to a local agency for park purposes all or any portion of the remainder outside the boundary of the state highway or public work or improvement, but not beyond the next adjacent dedicated street, when such use will protect such highway, public work, or improvement and its environs, and will preserve its view, appearance, light, air, and usefulness. Such lease shall be made in accordance with procedures, terms, and conditions to be prescribed by the commission. Such terms and conditions shall include all of the following:

(a) Provisions requiring the local agency to develop and maintain such portion of the remainder as a park.

(b) Provisions that whenever such portion of the remainder is needed for state highway purposes, the lease shall terminate.

(c) Provisions that whenever such portion of the remainder ceases to be used for park purposes, the lease shall terminate.

SEC. 35. Section 135 of the Streets and Highways Code is amended to read:

135. The department may enter into contracts for the removal or relocation of structures or improvements situated upon real property over which a right-of-way for state highway purposes has been or is to be acquired. Nothing in this section limits or restricts the authority of the department to make agreements authorized by Section 1263.610 of the Code of Civil Procedure.

SEC. 36. Section 146.5 of the Streets and Highways Code is amended to read:

146.5. The department may construct fringe and transportation corridor parking facilities along the state highway system when such construction is financed, in whole or in part, with federal funds and the entire balance of the cost of such construction is financed with funds contributed by the local agency or transit district. For the purposes of this code, such facilities shall be considered as part of the state highway and the department shall acquire the right-of-way necessary for such facilities in accordance with all of the laws and procedures applicable to other state highway projects.

The rights and obligations of the department and the local agency or transit district with respect to such fringe and transportation corridor parking facilities shall be determined by agreement between the department and the local agency or transit district.

SEC. 37. Section 887.2 of the Streets and Highways Code is amended to read:

887.2. The Department of Parks and Recreation may, when funds are specifically appropriated therefor by the Legislature, acquire by purchase, gift, grant, bequests, demise, lease, or otherwise, the fee or any lesser interest or right in real property, including but not limited to access rights and scenic easements, for the purpose of establishing such parkway.

SEC. 38. Section 30401 of the Streets and Highways Code is amended to read:

30401. In eminent domain proceedings to acquire property for any of the purposes of this chapter, any toll bridge or other toll highway crossing, real property, personal property, franchises, rights, easements, or other property or privileges appurtenant thereto appropriated or dedicated to a public use or purpose by any person, private, public, or municipal corporation, county, city, district, or any political subdivision of the state, may be condemned and taken, and the acquisition and use thereof as provided in this chapter for the same public use or purpose to which such property has been appropriated or dedicated or for any other public use or purpose, shall be deemed a superior and permanent right and necessity, and a more necessary use and purpose than the public use or purpose to which such property has already been appropriated or dedicated.

It shall not be necessary in any eminent domain proceedings pursuant to this section to plead or prove any acts or proceedings

preliminary or prior to the adoption of the resolution required by Section 1245.220 of the Code of Civil Procedure.

SEC. 39. Section 30402 of the Streets and Highways Code is amended to read:

30402. In eminent domain proceedings to acquire property for any of the purposes of this chapter, any transportation facilities, additional transportation facilities, real property, personal property, franchises, rights, easements, or other property or privileges appurtenant thereto appropriated or dedicated to a public use or purpose by any person, private, public, or municipal corporation, county, city, district, or any political subdivision of the state may be condemned and taken and the acquisition and use thereof as provided in this chapter for the same public use or purpose to which such property has been appropriated or dedicated or for any other public use or purpose shall be deemed a superior and permanent right and necessity, and a more necessary use and purpose than the public use or purpose to which such property has already been appropriated or dedicated, except as to real estate, personal property, franchises, rights, privileges, or easements actively used by or necessary for the operation or a common carrier by railroad other than those used primarily by such railroad for the transportation of persons or property by interurban operation to and from an area within 50 miles from either end of any toll bridge or other toll highway crossing acquired or constructed pursuant to this chapter.

Except for such prior railroad use, it shall not be necessary in any eminent domain proceedings pursuant to this section to plead or prove any acts or proceedings preliminary or prior to the adoption of the resolution required by Section 1245.220 of the Code of Civil Procedure.

SEC. 40. Section 30403 of the Streets and Highways Code is repealed.

SEC. 41. Section 30404 of the Streets and Highways Code is repealed.

SEC. 42. Section 30405 of the Streets and Highways Code is repealed.

SEC. 43. Section 250 of the Water Code is amended to read:

250. In the name of the people of the State of California, the department may acquire by eminent domain any property necessary for state water and dam purposes. The department shall not commence any such proceeding in eminent domain unless the project for which the property is being acquired has been authorized and funds are available therefor.

SEC. 44. Section 251 of the Water Code is repealed.

SEC. 45. Section 251.1 of the Water Code is repealed.

SEC. 46. Section 252 of the Water Code is amended to read:

252. Subject to Sections 1240.670 and 1240.680 of the Code of Civil Procedure, the real property which the department may acquire by eminent domain, or otherwise, includes any property dedicated to park purposes, however it may have been dedicated.

SEC. 47. Section 254 of the Water Code is repealed.

SEC. 48. Section 255 of the Water Code is repealed.

SEC. 49. Section 256 of the Water Code is repealed.

SEC. 50. Section 8304 of the Water Code is amended to read:

8304. The department may obtain or condemn any right-of-way necessary for any construction under this chapter.

SEC. 51. Section 8590 of the Water Code is amended to read:

8590. The board may do any of the following:

(a) Acquire either within or without the boundaries of the drainage district, by purchase, condemnation or by other lawful means in the name of the drainage district, all lands, rights-of-way, easements, property or material necessary or requisite for the purpose of bypasses, weirs, cuts, canals, sumps, levees, overflow channels and basins, reservoirs and other flood control works, and other necessary purposes, including drainage purposes.

(b) Construct, clear, and maintain bypasses, levees, canals, sumps, overflow channels and basins, reservoirs and other flood control works.

(c) Construct, maintain, and operate ditches, canals, pumping plants, and other drainage works.

(d) Make contracts in the name of the drainage district to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this division, or arising out of the use, taking, or damage of any property for any of the purposes of this division.

SEC. 52. Section 8590.1 of the Water Code is repealed.

SEC. 53. Section 8593 of the Water Code is amended to read:

8593. The board may acquire by eminent domain in the name of the drainage district any property necessary for any of the purposes set forth in this part.

SEC. 54. Section 8594 of the Water Code is repealed.

SEC. 55. Section 8595 of the Water Code is repealed.

SEC. 56. Section 11575.1 of the Water Code is repealed.

SEC. 57. Section 11575.2 of the Water Code is repealed.

SEC. 58. Section 11580 of the Water Code is amended to read:

11580. When the department cannot acquire any necessary property by agreement with the owner, the department may exercise the power of eminent domain to acquire the property in the name of the state if the project for which the property is being acquired has been authorized and funds are available therefor.

SEC. 59. Section 11581 of the Water Code is repealed.

SEC. 60. Section 11582 of the Water Code is repealed.

SEC. 61. Section 11583 of the Water Code is repealed.

SEC. 62. Section 11587 of the Water Code is repealed.

SEC. 63. This act shall become operative only if Assembly Bill No. 11 is chaptered and becomes effective January 1, 1976, and, in such case, shall become operative at the same time as Assembly Bill No. 11.

CHAPTER 1240

An act to repeal Section 1001 of the Civil Code, to amend Sections 170, 428.10, 534, 640, and 710 of, to add Sections 426.70 and 1036 to, and to repeal Section 1238.8 of, the Code of Civil Procedure, to amend Section 15009 of, to add Sections 1047.5 and 1048 to, to add Chapter 3 (commencing with Section 30051) to Division 21 of, and to repeal Sections 15007.5 and 16003 of, the Education Code, to amend Sections 811, 812, and 814 of the Evidence Code, to amend Sections 25431, 43424, 50366, 50485.2, 51291, 53844, 55003, 65573, and 67542 of, to add Sections 7275, 25350.5, 37350.5, and 65574 to, to add Article 7 (commencing with Section 14770) to Chapter 5 of Part 5.5 of Division 3 of Title 2 of, to add Article 10 (commencing with Section 16429) to Chapter 2 of Part 2 of Division 4 of Title 2 of, and to add Article 2.6 (commencing with Section 53040) to Chapter 1 of Part 1 of Division 2 of Title 5 of, to repeal Sections 184, 816, 50485.13, and 65574 of, and to repeal Article 4.5 (commencing with Section 190) of Chapter 1 of Division 1 of Title 1 of, the Government Code, to amend Section 4009 of the Harbors and Navigation Code, to amend Sections 33398, 33720, 34325, 34875, and 36059 of, and to add Sections 1260, 4967, 8501, and 35167 to, and to repeal Sections 33721, 33722, 33723, 34876, 34877, and 34878 of, the Health and Safety Code, to amend Sections 3320.1, 3341, 5301, 8402, 25528, and 25531 of, and to add Article 11 (commencing with Section 8030) to Chapter 4 of Part 3 of Division 6 of, the Public Resources Code, to amend Sections 221, 1503, and 7526 of, to add Sections 2729 and 7557 to, to add Article 7 (commencing with Section 610) to Chapter 3 of Part 1 of Division 1 of, to add Article 7 (commencing with Section 861) to Chapter 4 of Part 1 of Division 1 of, and to add Article 2.6 (commencing with Section 21652) to Chapter 4 of Part 1 of Division 9 of, and to repeal Section 21634 of, the Public Utilities Code, to amend Sections 760, 858, 869, 943, 5100, 5101, 5104, 5661, 10100.1, and 11400 of, to repeal Sections 943.1, 943.2, 943.4, and 970 of, and to repeal Chapter 3.5 (commencing with Section 1050) of Division 2 of, the Streets and Highways Code, and to repeal Chapter 2 (commencing with Section 7020) of Division 4 of the Water Code, relating to the acquisition of property for public use.

[Became law without Governor's signature October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 1001 of the Civil Code is repealed.

SEC. 2. Section 170 of the Code of Civil Procedure is amended to read:

170. No justice or judge shall sit or act as such in any action or proceeding:

1. To which he is a party; or in which he is interested other than

as a holder or owner of any capital stock of a corporation, or of any bond, note or other security issued by a corporation;

2. In which he is interested as a holder or owner of any capital stock of a corporation, or of any bond, note or other security issued by a corporation;

3. When he is related to either party, or to an officer of a corporation, which is a party, or to an attorney, counsel, or agent of either party, by consanguinity or affinity within the third degree computed according to the rules of law, or when he is indebted, through money borrowed as a loan, to either party, or to an attorney, counsel or partner of either party, or when he is so indebted to an officer of a corporation or unincorporated association which is a party; provided, however, that if the parties appearing in the action and not then in default, or the petitioner in any probate proceeding, or the executor, or administrator of the estate, or the guardian of the minor or incompetent person, or the commissioner, or the referee, or the attorney for any of the above named, or the party or his attorney in all other or special proceedings, shall sign and file in the action or matter, a stipulation in writing waiving the disqualification mentioned in this subdivision or in subdivision 2 or 4 hereof, the judge or court may proceed with the trial or hearing and the performance of all other duties connected therewith with the same legal effect as if no such disqualification existed;

4. When, in the action or proceeding, or in any previous action or proceeding involving any of the same issues, he has been attorney or counsel for any party; or when he has given advice to any party upon any matter involved in the action or proceeding; or when he has been retained or employed as attorney or counsel for any party within two years prior to the commencement of the action or proceeding;

5. When it is made to appear probable that, by reason of bias or prejudice of such justice or judge a fair and impartial trial cannot be had before him.

Whenever a judge or justice shall have knowledge of any fact or facts, which, under the provisions of this section, disqualify him to sit or act as such in any action or proceeding pending before him, it shall be his duty to declare the same in open court and cause a memorandum thereof to be entered in the minutes or docket. It shall thereupon be the duty of the clerk, or the judge if there be no clerk, to transmit forthwith a copy of such memorandum to each party, or his attorney, who shall have appeared in such action or proceeding, except such party or parties as shall be present in person or by attorney when the declaration shall be made.

In justice courts when, before the trial, either party makes and files an affidavit that he believes that he cannot have a fair and impartial trial before the judge before which the action is pending, by reason of the interest, prejudice or bias of the judge, the court may order the transfer of the action, and the provisions of Section 398 shall apply to such transfer.

Whenever a judge of a court of record who shall be disqualified under the provisions of this section, to sit or act as such in any action or proceeding pending before him, neglects or fails to declare his disqualification in the manner hereinbefore provided, any party to such action or proceeding who has appeared therein may present to the court and file with the clerk a written statement objecting to the hearing of such matter or the trial of any issue of fact or law in such action or proceeding before such judge, and setting forth the fact or facts constituting the ground of the disqualification of such judge. Copies of such written statement shall forthwith be served by the presenting party on each party, or his attorney, who has appeared in the action or proceeding and on the judge alleged in such statement to be disqualified.

Within 10 days after the filing of any such statement, or 10 days after the service of such statement as above provided, whichever is later in time, the judge alleged therein to be disqualifed may file with the clerk his consent in writing that the action or proceeding be tried before another judge, or may file with the clerk his written answer admitting or denying any or all of the allegations contained in such statement and setting forth any additional fact or facts material or relevant to the question of his disqualifications. The clerk shall forthwith transmit a copy of the judge's consent or answer to each party or his attorney who shall have appeared in such action or proceeding. Every such statement and every such answer shall be verified by oath in the manner prescribed by Section 446 for the verification of pleadings. The statement of a party objecting to the judge on the ground of his disqualification, shall be presented at the earliest practicable opportunity, after his appearance and discovery of the facts constituting the ground of the judge's disqualification, and in any event before the commencement of the hearing of any issue of fact in the action or proceeding before such judge.

No judge of a court of record, who shall deny his disqualification, shall hear or pass upon the question of his own disqualification; but in every such case, the question of the judge's disqualification shall be heard and determined by some other judge agreed upon by the parties who shall have appeared in the action or proceeding, or, in the event of their failing to agree, by a judge assigned to act by the Chairman of the Judicial Council, and, if the parties fail to agree upon a judge to determine the question of the disqualification, within five days after the expiration of the time allowed herein for the judge to answer, it shall be the duty of the clerk then to notify the Chairman of the Judicial Council of that fact; and it shall be the duty of the Chairman of the Judicial Council forthwith, upon receipt of notice from the clerk, to assign some other judge, not disqualified, to hear and determine the question.

If such judge admits his disqualification, or files his written consent that the action or proceeding be tried before another judge, or fails to file his answer within the 10 days herein allowed, or if it shall be determined after hearing that he is disqualified, the action or

proceeding shall be heard and determined by another judge or justice not disqualified, who shall be agreed upon by the parties, or, in the event of their failing to agree, assigned by the Chairman of the Judicial Council; provided, however, that when there are two or more judges of the same court, one of whom is disqualified, the action or proceeding may be transferred to a judge who is not disqualified.

A judge who is disqualified may, notwithstanding his disqualification, request another judge, who has been agreed upon by the parties, to sit and act in his place.

6. In an action or proceeding brought in any court by or against the Reclamation Board of the State of California, or any irrigation, reclamation, levee, swampland or drainage district, or trustee, officer or employee thereof, affecting or relating to any real property, or an easement or right-of-way, levee, embankment, canal, or any work provided for or approved by the Reclamation Board of the State of California, a judge of the superior court of the county, or a judge of the municipal court or justice court of the judicial district, in which such real property, or any part thereof, or such easement or right-of-way, levee, embankment, canal or work, or any part thereof is situated shall be disqualified to sit or act, and such action shall be heard and tried by some other judge assigned to sit therein by the Chairman of the Judicial Council, unless the parties to the action shall sign and file in the action or proceeding a stipulation in writing, waiving the disqualification in this subdivision of this section provided, in which case such judge may proceed with the trial or hearing with the same legal effect as if no such legal disqualification existed. If, however, the parties to the action shall sign and file a stipulation, agreeing upon some other judge to sit or act in place of the judge disqualified under the provisions of this subdivision, the judge agreed upon shall be called by the judge so disqualified to hear and try such action or proceeding; provided, that nothing herein contained shall be construed as preventing the judge of the superior court of such county, or of the municipal court of such judicial district, from issuing a temporary injunction or restraining order, which shall, if granted, remain in force until vacated or modified by the judge designated as herein provided.

7. When, as a judge of a court of record, by reason of permanent or temporary physical impairment, he is unable to properly perceive the evidence or properly conduct the proceedings.

8. Notwithstanding anything contained in subdivision 6 of this section, a judge of the superior court or a judge of the municipal court or justice court of the judicial district, in which any real property is located, shall not be disqualified to hear or determine any matter in which the opposing party shall have failed to appear within the time allowed by law, or as to such of the opposing parties who shall have failed to appear within the time allowed by law, and as to which matter or parties the same shall constitute purely a default hearing; provided, that nothing in this section contained shall be construed as preventing the judge of the superior court of such

county from issuing an order for possession prior to judgment in proceedings in eminent domain.

Nothing in this section contained shall affect a party's right to a change of the place of trial in the cases provided for in Title 4 (commencing with Section 392) of Part 2 of this code.

SEC. 3. Section 426.70 is added to the Code of Civil Procedure, to read:

426.70. (a) Notwithstanding subdivision (a) of Section 426.60, this article applies to eminent domain proceedings.

(b) The related cause of action may be asserted by cross-complaint in an eminent domain proceeding whether or not the party asserting such cause of action has presented a claim in compliance with Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code to the plaintiff in the original eminent domain proceeding.

SEC. 4. Section 428.10 of the Code of Civil Procedure is amended to read:

428.10. A party against whom a cause of action has been asserted in a complaint or cross-complaint may file a cross-complaint setting forth either or both of the following:

(a) Any cause of action he has against any of the parties who filed the complaint or cross-complaint against him. Nothing in this subdivision authorizes the filing of a cross-complaint against the plaintiff in an action commenced under Title 7 (commencing with Section 1230.010) of Part 3.

(b) Any cause of action he has against a person alleged to be liable thereon, whether or not such person is already a party to the action, if the cause of action asserted in his cross-complaint (1) arises out of the same transaction, occurrence, or series of transactions or occurrences as the cause brought against him or (2) asserts a claim, right, or interest in the property or controversy which is the subject of the cause brought against him.

SEC. 5. Section 534 of the Code of Civil Procedure is amended to read:

534. In any action brought by a riparian owner to enjoin the diversion of water appropriated or proposed to be appropriated, or the use thereof, against any person or persons appropriating or proposing to appropriate such waters, the defendant may set up in his answer that the water diverted or proposed to be diverted is for the irrigation of land or other public use, and, in such case, he shall also in such answer set forth the quantity of water desired to be taken and necessary to such irrigation of land or the public use, the nature of such use, the place where the same is used or proposed to be used, the duration and extent of the diversion or the proposed diversion, including the stages of the flow of the stream at and during the time in which the water is to be diverted, and that the same may be diverted without interfering with the actual and necessary beneficial uses of the plaintiff, and that such defendant so answering desires that the court shall ascertain and fix the damages, if any, that will

result to the plaintiff or to his riparian lands from the appropriation of the water so appropriated or intended to be appropriated by defendant.

The plaintiff may serve and file a reply to the defendant's answer stating plaintiff's rights to the water and the damage plaintiff will suffer by the defendant's taking of the water, and plaintiff may implead as parties to the action all persons necessary to a full determination of the rights of plaintiff to the water and the damages plaintiff will suffer by the proposed taking by defendant, and the court shall have jurisdiction to hear and determine all the rights to water of the plaintiff and other parties to the action, and said parties shall have a right to state and prove their rights, and shall be bound by the judgment rendered the same as though made parties plaintiff at the commencement of the action.

Upon the trial of the case the court shall receive and hear evidence on behalf of the respective parties, and if the court finds that the allegations of such answer are true as to the aforesaid matters, and that the appropriation and diversion of such waters is for irrigation of land or other public use and that, after allowing sufficient water for the actual and necessary beneficial uses of the plaintiff and other parties, there is water available to be beneficially appropriated by such defendant so answering, the court shall fix the time and manner and extent of such appropriation and the actual damages, if any, resulting to the plaintiff or other parties on account of the same, and in fixing such damages the court shall be guided by Article 5 (commencing with Section 1263.410) of Chapter 9 of Title 7 of Part 3, and if, upon the ascertainment and fixing of such damages the defendant, within the time allowed in Section 1268.010 for the payment of damages in proceedings in eminent domain, shall pay into court the amount of damages fixed and the costs adjudged to be paid by such defendant, or give a good and sufficient bond to pay the same upon the final settlement of the case, the injunction prayed for by the plaintiff shall be denied to the extent of the amount the defendant is permitted to appropriate, as aforesaid, and the temporary injunction, if any has been granted, shall be vacated to the extent aforesaid; provided, that any of the parties may appeal from such judgment as in other cases; and provided, further, that if such judgment is in favor of the defendant and if he upon and pending such appeal shall keep on deposit with the clerk of said court the amount of such damages and costs, or the bond, if it be given, so awarded to be paid to the plaintiff or other parties in the event such judgment shall be affirmed, no injunction against the appropriation of the amount the defendant is permitted to appropriate as aforesaid shall be granted or enforced pending such appeal, and, upon the acceptance by the plaintiff or other parties of such amount so awarded or upon the affirmation of such decision on appeal so that such judgment shall become final, the defendant shall have the right to divert and appropriate from such stream, against such plaintiff or other parties and his successors in interest, the quantity of water

therein adjudged and allowed. Upon the filing of such answer as is herein provided for, the parties plaintiff or other parties and defendant shall be entitled to a jury trial upon the issues as to damages so raised, as provided in Title 7 (commencing with Section 1230.010) of Part 3, applying to proceedings in eminent domain.

SEC. 6. Section 640 of the Code of Civil Procedure is amended to read:

640. A reference may be ordered to the person or persons, not exceeding three, agreed upon by the parties. If the parties do not agree, the court or judge must appoint one or more referees, not exceeding three, who reside in the county in which the action or proceeding is triable, and against whom there is no legal objection, or the reference may be made to a court commissioner of the county where the cause is pending.

SEC. 7. Section 710 of the Code of Civil Procedure is amended to read:

710. (a) Whenever a judgment for the payment of money is rendered by any court of this state against a defendant to whom money is owing and unpaid by this state or by any county, city and county, city or municipality, quasi-municipality, district or public corporation, the judgment creditor may file a duly authenticated abstract or transcript of such judgment together with an affidavit stating the exact amount then due, owing and unpaid thereon and that he desires to avail himself of the provisions of this section in the manner as follows:

1. If such money, wages or salary is owing and unpaid by this state to such judgment debtor, said judgment creditor shall file said abstract or transcript and affidavit with the state department, board, office or commission owing such money, wages or salary to said judgment debtor prior to the time such state department, board, office or commission presents the claim of such judgment debtor therefor to the State Controller. Said state department, board, office or commission in presenting such claim of such judgment debtor to said State Controller shall note thereunder the fact of the filing of such abstract or transcript and affidavit and state the amount unpaid on said judgment as shown by said affidavit and shall also note any amounts advanced to the judgment debtor by, or which the judgment debtor owes to, the State of California by reason of advances for expenses or for any other purpose. Thereupon the State Controller, to discharge such claim of such judgment debtor, shall pay into the court which issued such abstract or transcript by his warrant or check payable to said court the whole or such portion of the amount due such judgment debtor on such claim, after deducting from such claim an amount sufficient to reimburse the state department, board, office or commission for any amounts advanced to said judgment debtor or by him owed to the State of California, and after deducting therefrom an amount equal to one-half or such greater portion as is allowed by statute of the United States, of the earnings owing to the judgment debtor for his personal services to

the state rendered at any time within 30 days next preceding the filing of such abstract or transcript, as will satisfy in full or to the greatest extent the amount unpaid on said judgment and the balance thereof; if any, to the judgment debtor.

2. If such money, wages or salary is owing and unpaid to such judgment debtor by any county, city and county, city or municipality, quasi-municipality, district or public corporation, said judgment creditor shall file said abstract or transcript and affidavit with the auditor of such county, city and county, city or municipality, quasi-municipality, district or public corporation (and in case there be no auditor then with the official whose duty corresponds to that of auditor). Thereupon said auditor (or other official) to discharge such claim of such judgment debtor shall pay into the court which issued such abstract or transcript by his warrant or check payable to said court the whole or such portion of the amount due on such claim of such judgment debtor, less an amount equal to one-half or such greater portion as is allowed by statute of the United States, of the earnings of the debtor owing by the county, city and county, city, municipality, quasi-municipality, district or public corporation to the judgment debtor for his personal services to such public body rendered at any time within 30 days next preceding the filing of such abstract or transcript, as will satisfy in full or to the greatest extent the amount unpaid on said judgment and the balance thereof, if any, to the judgment debtor.

(b) The judgment creditor upon filing such abstract or transcript and affidavit shall pay a fee of two dollars and fifty cents ($2.50) to the person or agency with whom the same is filed.

(c) Whenever a court receives any money hereunder, it shall pay as much thereof as is not exempt from execution under this code to the judgment creditor and the balance thereof, if any, to the judgment debtor. The procedure for determining the claim of exemption shall be governed by the procedure set forth in Section 690.50 of this code, and the court rendering the judgment shall be considered the levying officer for the purpose of that section.

(d) In the event the moneys owing to a judgment debtor by any governmental agency mentioned in this section are owing by reason of an award made in a condemnation proceeding brought by the governmental agency, such governmental agency may pay the amount of the award to the clerk of the court in which such condemnation proceeding was tried, and shall file therewith the abstract or transcript of judgment and the affidavit filed with it by the judgment creditor. Such payment into court shall constitute payment of the condemnation award within the meaning of Section 1268.010. Upon such payment into court and the filing with the county clerk of such abstract or transcript of judgment and affidavit, the county clerk shall notify by mail, through their attorneys, if any, all parties interested in said award of the time and place at which the court which tried the condemnation proceeding will determine the conflicting claims to said award. At said time and place the court shall

make such determination and order the distribution of the money held by the county clerk in accordance therewith.

(e) The judgment creditor may state in the affidavit any fact or facts tending to establish the identity of the judgment debtor. No public officer or employee shall be liable for failure to perform any duty imposed by this section unless sufficient information is furnished by the abstract or transcript together with the affidavit to enable him in the exercise of reasonable diligence to ascertain such identity therefrom and from the papers and records on file in the office in which he works The word "office" as used herein does not include any branch or subordinate office located in a different city.

(f) Nothing in this section shall authorize the filing of any abstract or transcript and affidavit against: (1) any wages, or salary owing to the Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, and Attorney General, or (2) any overpayment of tax, penalty or interest, or interest allowable with respect to such overpayment, under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

(g) Any fees received by a state agency under this section shall be deposited to the credit of the fund from which payments were, or would be, made on account of a garnishment under this section. For the purpose of this paragraph, payments from the State Pay Roll Revolving Fund shall be deemed payments made from the fund out of which moneys to meet such payments were transferred to said revolving fund.

(h) (1) In the event the moneys owing to a judgment debtor by any governmental agency mentioned in this section are for wages or salary, the judgment creditor shall mail under a separate cover at the time of filing the affidavit with the governmental agency, in an envelope marked "Personal and Confidential", a copy of the affidavit and a Notice to Judgment Debtor as provided in paragraph (2) of this subdivision, addressed to the judgment debtor at his place of employment.

(2) The Notice to Judgment Debtor shall be in 10-point bold type, and in substantially the following form:

You may be entitled to file a claim exempting your salary or wages from execution. You may seek the advice of any attorney or may, within 10 days from the date your salary or wages were levied upon, deliver an affidavit to the court rendering the judgment to exempt such salary or wages, as provided in Section 690.50 of the Code of Civil Procedure.

SEC. 8. Section 1036 is added to the Code of Civil Procedure, to read:

1036. In any inverse condemnation proceeding brought for the taking of any interest in real property, the court rendering judgment for the plaintiff by awarding compensation for such taking, or the attorney representing the public entity who effects a settlement of such proceeding, shall determine and award or allow to such

plaintiff, as a part of such judgment or settlement, such sum as will, in the opinion of the court or such attorney, reimburse such plaintiff for his reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of such proceeding.

SEC. 8.1. Section 1238.8, as added to the Code of Civil Procedure by Senate Bill No. 576 of the 1975–76 Regular Session of the Legislature, is repealed.

SEC. 9. Section 1047.5 is added to the Education Code, to read:

1047.5. The governing board of any school district may acquire by eminent domain any property necessary to carry out any of the powers or functions of the district.

SEC. 10. Section 1048 is added to the Education Code, to read:

1048. The governing board of a school district may lease property in an adjoining school district for garage, warehouse, or other utility purposes or may purchase property in an adjoining school district for such purposes and may dispose of such property in the same manner as property within the boundary of the district is purchased and disposed of.

The power of eminent domain shall not be applicable and such acquisitions by purchase shall be subject to the approval of the governing board of school district in which the property is located.

SEC. 11. Section 15007.5 of the Education Code is repealed.

SEC. 12. Section 15009 of the Education Code is amended to read:

15009. The governing board of a school district may acquire a site for a school building contiguous to the boundaries of the district and upon the acquisition of such site it shall become a part of the district. The site shall not be acquired until the county committee on school district organization of the county or of each of the counties concerned has received the proposal for acquisition of the site and reported its recommendations thereon to the governing boards of the districts concerned and to each county superintendent of schools concerned. The report of the county committee shall be made within 60 days from the time the proposal for acquisition of the site was submitted to it. The power of eminent domain may be used for the purposes of this section.

A school site is contiguous for the purpose of this section although separated from the boundaries of the district by a road, street, stream, or other natural or artificial barrier or right-of-way.

SEC. 13. Section 16003 of the Education Code is repealed.

SEC. 14. Chapter 3 (commencing with Section 30051) is added to Division 21 of the Education Code, to read:

CHAPTER 3. EMINENT DOMAIN

30051. Any educational institution of collegiate grade within this state not conducted for profit may acquire by eminent domain any property necessary to carry out any of its powers or functions.

SEC. 15. Section 811 of the Evidence Code is amended to read:

811. As used in this article, "value of property" means the amount of "just compensation" to be ascertained under Section 19 of Article I of the State Constitution and the amount of value, damage, and benefits to be ascertained under Articles 4 (commencing with Section 1263.310) and 5 (commencing with Section 1263.410) of Chapter 9 of Title 7 of Part 3 of the Code of Civil Procedure.

SEC. 16. Section 812 of the Evidence Code is amended to read:

812. This article is not intended to alter or change the existing substantive law, whether statutory or decisional, interpreting "just compensation" as used in Section 19 of Article I of the State Constitution or the terms "fair market value," "damage," or "benefit" as used in Articles 4 (commencing with Section 1263.310) and 5 (commencing with Section 1263.410) of Chapter 9 of Title 7 of Part 3 of the Code of Civil Procedure.

SEC. 17. Section 814 of the Evidence Code is amended to read.

814. The opinion of a witness as to the value of property is limited to such an opinion as is based on matter perceived by or personally known to the witness or made known to him at or before the hearing, whether or not admissible, that is of a type that reasonably may be relied upon by an expert in forming an opinion as to the value of property, including but not limited to the matters listed in Sections 815 to 821, inclusive, unless a witness is precluded by law from using such matter as a basis for his opinion.

SEC. 18. Section 184 of the Government Code is repealed

SEC. 19. Article 4.5 (commencing with Section 190) of Chapter 1 of Division 1 of Title 1 of the Government Code is repealed.

SEC. 20. Section 816 of the Government Code is repealed.

SEC. 27. Section 7275 is added to the Government Code, to read:

7275. Whenever any public entity acquires real property by eminent domain, purchase, or exchange, the purchase price and other consideration paid by such entity is public information and shall be made available upon request from the entity concerned.

SEC. 28. Article 7 (commencing with Section 14770) is added to Chapter 5 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 7. Restoration of Records Destroyed by Public Calamity

14770. (a) As used in this section:

(1) "Acquire" includes acquisition by gift, purchase, lease, eminent domain, or otherwise.

(2) "Public record plant" means the plant, or any part thereof, or any record therein, of any person engaged in the business of searching or publishing public records or insuring or guaranteeing titles to real property, including copies of public records and abstracts or memoranda taken from public records, which is owned by or in the possession of such person or which is used by him in his business.

(b) If public records of any state agency have been lost or destroyed by conflagration or other public calamity, the director may acquire the right to reproduce such portion of a public record plant as is necessary for the purpose of restoring or replacing the records or their substance.

SEC. 29. Article 10 (commencing with Section 16429) is added to Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, to read:

Article 10. Condemnation Deposits Fund

16429. (a) The Condemnation Deposits Fund in the State Treasury is continued in existence. The fund consists of all money deposited in the State Treasury pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure and all interest earned or other increment derived from its investment. The State Treasurer shall receive all such moneys, duly receipt for, and safely keep the same in the fund, and for such duty he is liable upon his official bond.

(b) Money in the Condemnation Deposits Fund shall be invested under the provisions of Article 4 (commencing with Section 16470) of Chapter 3.

(c) The State Controller shall apportion as of June 30th and December 31st of each year the interest earned or increment derived and deposited in the fund during the six calendar months ending with such dates. There shall be apportioned and paid to each plaintiff having a deposit in the fund during the six-month period for which an apportionment is made an amount directly proportionate to the total deposits in the fund and the length of time such deposits remained therein. The State Treasurer shall pay out the money deposited by a plaintiff in such manner and at such times as the court or a judge thereof may, by order or decree, direct.

SEC. 30. Section 25350.5 is added to the Government Code, to read:

25350.5. The board of supervisors of any county may acquire by eminent domain any property necessary to carry out any of the powers or functions of the county.

SEC. 31. Section 25431 of the Government Code is amended to read:

25431. Any county may exercise the right of eminent domain to acquire any property necessary or convenient for carrying out the provisions of this article.

SEC. 32. Section 37350.5 is added to the Government Code, to read:

37350.5. A city may acquire by eminent domain any property necessary to carry out any of its powers or functions.

SEC. 33. Section 43424 of the Government Code is amended to read:

43424. It may advance money from the revolving fund as a

deposit pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6 of, or Article 2 (commencing with Section 1268.110) of Chapter 11 of, Title 7 of Part 3 of the Code of Civil Procedure in any eminent domain proceeding to acquire any property necessary in establishing, laying out, opening, widening, extending, or straightening any street or other public way.

SEC. 34. Section 50366 of the Government Code is amended to read:

50366. A local agency may exercise the right of eminent domain to acquire any property necessary or convenient to carry out this article

SEC. 35. Section 50485.2 of the Government Code is amended to read:

50485.2. It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of the aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared: (a) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; and (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented by appropriate exercise of the police power or the authority conferred by Article 2.6 (commencing with Section 21652) of Part 1 of Division 9 of the Public Utilities Code. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which a city or county may raise and expend public funds and acquire land or property interests therein.

SEC. 36. Section 50485.13 of the Government Code is repealed.

SEC. 37. Section 51291 of the Government Code is amended to read:

51291. (a) As used in this section, Section 51292, and Section 51295 "public agency" means the state, or any department or agency thereof, and any county, city, school district, or other local public district, agency, or entity; and "person" means any person authorized to acquire property by eminent domain.

(b) Whenever it appears that land within an agricultural preserve may be required by a public agency or person for a public use, the public agency or person shall advise the Director of Food and Agriculture and the local governing body responsible for the administration of the preserve of the intention to consider the location of a public improvement within the preserve.

Within 30 days thereafter the Director of Food and Agriculture and the local governing body shall forward to the public agency or person concerned their comments with respect to the effect of the

location of the public improvement on the land within the agricultural preserve and such comments shall be considered by the public agency or person. Failure of any public agency or person to comply with the requirements of this section shall not invalidate any action by such agency or person to locate a public improvement within an agricultural preserve. However, such failure by any person or any public agency other than a state agency shall be admissible in evidence in any litigation for the acquisition of such land or involving the allocation of funds or the construction of the public improvement. This subdivision does not apply to the erection, construction, alteration or maintenance of gas, electric, water, or communication utility facilities within an agricultural preserve if that preserve was established after submission of the location of such facilities to the city or county for review or approval.

SEC. 38. Article 2.6 (commencing with Section 53040) is added to Chapter 1 of Part 1 of Division 2 of Title 5 of the Government Code, to read:

Article 2 6. Restoration of Records Destroyed by Public Calamity

53040. (a) As used in this section:

(1) "Acquire" includes acquisition by gift, purchase, lease, eminent domain, or otherwise.

(2) "Local public entity" means any public entity other than the state.

(3) "Public record plant" means the plant, or any part thereof, or any record therein, of any person engaged in the business of searching or publishing public records or insuring or guaranteeing titles to real property, including copies of public records and abstracts or memoranda taken from public records, which is owned by or in the possession of such person or which is used by him in his business.

(b) If public records of a local public entity have been lost or destroyed by conflagration or other public calamity, the local public entity may acquire the right to reproduce such portion of a public record plant as is necessary for the purpose of restoring or replacing the records or their substance.

SEC 39. Section 53844 of the Government Code is amended to read·

53844. In any county which qualifies as set forth in Section 53840 to use the foregoing procedure for short-term financing, all interest payments on the loans may, in the discretion of the board of supervisors, be charged to the general fund of any district or fund for which loans have been made. All interest earned on funds in the county treasury shall be credited to said general fund of the county, excepting therefrom the interest on deposits of school districts which shall accrue to the general funds of the respective school districts, the interest earned on specific investments of a local agency as authorized by Section 53601 of this code or by Section 5007 of the

Education Code, and moneys on deposit in court in eminent domain actions pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6 of, or Article 2 (commencing with Section 1268.110) of Chapter 11 of, Title 7 of Part 3 of the Code of Civil Procedure.

SEC. 40. Section 55003 of the Government Code is amended to read:

55003. When it is necessary to acquire property in the construction of any outfall sewer or conduit pursuant to this chapter, the property may be acquired by eminent domain

SEC. 40.1. Section 65573, as added to the Government Code by Senate Bill No. 576 of the 1975–76 Regular Session of the Legislature, is amended to read:

65573. "Open-space land" means any parcel or area of land or water upon which buildings are not located, which meets the definition of open space established in Section 65560.

SEC. 40.2. Section 65574, as added to the Government Code by Senate Bill No. 576 of the 1975–76 Regular Session of the Legislature, is repealed.

SEC. 40.3. Section 65574 is added to the Government Code, to read:

65574. (a) Subject to the limitations of this article, a city or county may acquire by eminent domain the fee or any lesser right or interest in any privately owned open-space land designated in an open-space element adopted pursuant to Article 10.5 (commencing with Section 65560).

(b) Where the property to be acquired is open-space land defined in paragraph (2) of subdivision (b) of Section 65560, only such interest less than a fee which is necessary to preserve the existing open-space character of land may be acquired pursuant to this section. In the event that such interest less than a fee is sought pursuant to this section, the affected property owner may require the condemnor to acquire the entire fee interest.

(c) Where property is sought to be acquired pursuant to this section:

(1) The complaint and the resolution of necessity shall refer specifically to this section.

(2) The resolution of necessity, in addition to the requirements imposed by Section 1245.230 of the Code of Civil Procedure, shall include a finding that the open-space lands to be acquired are necessary for the long-term benefit of the public.

(d) Notwithstanding Section 1245.250 of the Code of Civil Procedure, where property is sought to be acquired under this section, the resolution of necessity adopted pursuant to Section 1245.220 of the Code of Civil Procedure is not conclusive on the matters referred to in Section 1240.030 of the Code of Civil Procedure.

SEC. 41. Section 67542 of the Government Code is amended to read:

67542. The authority shall not commence any eminent domain

proceedings unless the board first adopts by unanimous vote a resolution that meets the requirements of Article 2 (commencing with Section 1245.210) of Chapter 4 of Title 7 of the Code of Civil Procedure.

SEC. 42. Section 4009 of the Harbors and Navigation Code is amended to read:

4009. After authority to construct a wharf or chute has been granted, until the grantee has procured from the owner the right-of-way and other necessary incidental uses of any lands necessary for the wharf or chute, there is no authority to construct a wharf or chute or to take tolls thereon.

SEC 43. Section 1260 is added to the Health and Safety Code, to read:

1260. (a) As used in this section, "nonprofit hospital" means a general acute care hospital, or an acute psychiatric hospital, owned and operated by a fund, foundation, or corporation, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(b) A nonprofit hospital may exercise the right of eminent domain to acquire property necessary for the establishment, operation, or expansion of the nonprofit hospital if both of the following requirements are satisfied:

(1) The property to be acquired by eminent domain is adjacent to other property used or to be used for the establishment, operation, or expansion of the nonprofit hospital.

(2) The Director of Health has certified, after the public hearing required by subdivision (c), that (i) the acquisition of the property sought to be condemned is necessary for the establishment, operation, or expansion of the nonprofit hospital, (ii) the public interest and necessity require the proposed project, and (iii) the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(c) The Director of Health shall adopt reasonable regulations which will provide for a public hearing to be conducted by a hearing officer in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code in the area where the hospital is located to determine the necessity of the proposed project and of any acquisition of property for the project. Written notice of the hearing shall be given to the voluntary area health planning agency, if one exists, in the area where the hospital is located. The voluntary area health planning agency so notified shall make its recommendations to the hearing officer within 90 days from the receipt of notice. No hearing shall be held prior to the expiration of such 90-day period unless the hearing officer has received the recommendations of the voluntary area health planning agency. At the public hearing, the hearing officer shall insure that the hearing, in part at least, considers the impact of the proposed project upon the delivery of health care services in the community

and upon the environment, as gathered from an environmental impact report. The applicant and all interested parties to the acquisition, including the voluntary area health planning agency, have the right to representation by counsel, the right to present oral and written evidence, and the right to confront and cross-examine opposing witnesses. A transcript of the public hearing shall be filed with the State Department of Health as a public record.

SEC. 44. Section 4967 is added to the Health and Safety Code, to read:

4967. The owner of property that may be benefited by the acquisition, construction, extension, or operation of the works referred to in this chapter may file with the district a request that a particular work be undertaken. The request may, but need not, include the descriptions and estimates referred to in Section 4966 and shall not be denied without a public hearing.

SEC. 45 Section 8501 is added to the Health and Safety Code, to read:

8501 Any cemetery authority which is described in Section 23701c of the Revenue and Taxation Code or is a corporation sole may acquire by eminent domain any property necessary to enlarge and add to an existing cemetery for the burial of the dead and the grounds thereof.

SEC. 46 Section 33398 of the Health and Safety Code is amended to read:

33398. Section 1245.260 of the Code of Civil Procedure shall not apply to any resolution or ordinance adopting, approving, amending, or approving the amendment of a redevelopment project or plan. Section 1245.260 of the Code of Civil Procedure shall apply to a resolution adopted by a redevelopment agency pursuant to Section 1245.220 of the Code of Civil Procedure with respect to a particular parcel or parcels of real property.

SEC. 47. Section 33720 of the Health and Safety Code is amended to read:

33720. The power of eminent domain shall not be exercised by the renewal area agency unless the legislative body has adopted a resolution of necessity that satisfies the requirements of Article 2 (commencing with Section 1245.210) of Chapter 4 of Title 7 of Part 3 of the Code of Civil Procedure.

SEC 48. Section 33721 of the Health and Safety Code is repealed.

SEC. 48.5. Section 33722 of the Health and Safety Code is repealed.

SEC. 49. Section 33723 of the Health and Safety Code is repealed

SEC 50. Section 34325 of the Health and Safety Code is amended to read:

34325. An authority may acquire by eminent domain any real property which it deems necessary for its purposes under this chapter. Real property belonging to the city, the county, the state, or any of its political subdivisions shall not be acquired without its consent.

SEC. 51. Section 34875 of the Health and Safety Code is amended to read:

34875. The power of eminent domain shall not be exercised by a corporation unless the commission has adopted a resolution of necessity that satisfies the requirements of Article 2 (commencing with Section 1245.210) of Chapter 4 of Title 7 of Part 3 of the Code of Civil Procedure.

SEC. 52. Section 34876 of the Health and Safety Code is repealed.

SEC. 53. Section 34877 of the Health and Safety Code is repealed.

SEC. 54. Section 34878 of the Health and Safety Code is repealed.

SEC. 55. Section 35167 is added to the Health and Safety Code, to read.

35167. When the commissioner has approved a housing project, the corporation may acquire the property necessary for the project by gift, bequest, purchase, or eminent domain.

SEC. 56. Section 36059 of the Health and Safety Code is amended to read:

36059. Within its area of operation, and with reference to farm labor centers, a housing authority may:

(a) Own, hold, and improve real or personal property.

(b) Purchase, lease, obtain options upon, acquire by gift, bequest, devise, or otherwise, any real or personal property or any interest therein.

(c) Accept grants from any person or agency, public or private.

(d) Borrow money and pledge any property, real or personal, as security.

(e) Contract with any person or agency, public or private, with regard to operation of the farm labor centers.

(f) Sell, lease, exchange, transfer, assign, purchase, or dispose of any real or personal property or interest therein.

(g) Insure or provide for the insurance of any real or personal property or operations of any farm labor centers against any risks or hazards.

(h) Employ such officers and employees, permanent and temporary, as may be required, determine their qualifications, duties and compensation, and delegate to one or more of them such powers or duties as may be necessary for the acquisition of any farm labor center.

(i) Acquire any real property by eminent domain necessary for the purposes of the housing authority.

(j) Lease or rent any dwellings, accommodations, lands, buildings, structures, or facilities embraced in any farm labor center, and, subject to the requirements for occupancy contained in this part, establish the rents and charges therefor.

SEC. 57. Section 3320.1 of the Public Resources Code is amended to read:

3320.1. (a) An agreement for the management, development and operation of two or more tracts in a pool or pools, or portions thereof, in a field as a unit without regard to separate ownerships for

the production of oil and gas, including repressuring operations therein, and for the allocation of benefits and costs on a basis set forth in such agreement, shall be valid and binding upon those who consent thereto and may be filed with the supervisor for approval.

Any agreement for the cooperative management, development and operation of two or more tracts in a pool or pools, or portions thereof, in a field for the production of oil or gas, including repressuring operations therein, shall be valid and binding upon those who consent thereto and may be filed with the supervisor for approval.

If in the judgment of the supervisor a unit agreement or cooperative agreement filed for approval is not detrimental to the intent and purposes of this article to arrest or ameliorate subsidence, or otherwise unlawful, the supervisor may approve the same. No such agreement approved by the supervisor hereunder or heretofore approved pursuant to applicable law prior to the enactment of this article shall be held to violate any of the statutes of this state prohibiting monopolies or acts, arrangements, agreements, contracts, combinations or conspiracies in restraint of trade or commerce.

(b) In the event that at the time of the approval by the supervisor of a unit or cooperative agreement under subdivision (a) of this section, the supervisor makes written findings that:

1. A primary purpose of the unit or cooperative agreement is the initiation and conduct of repressuring operations in the area covered thereby for the purpose of arresting or ameliorating subsidence; and

2. The initiation and conduct of repressuring operations in the area covered by the unit or cooperative agreement are feasible and compatible with the purposes of this article; and

3. The persons who are entitled to 75 percent of the proceeds of production of oil and gas within the area covered by the unit or cooperative agreement (measured by the production of oil and gas therein in the last calendar year preceding the date of such approval) have become parties to such agreement by signing or ratifying it; and

4. It is necessary, in order to initiate and conduct such repressuring operations, that the properties of nonconsenting persons who own working interests or royalty interests in lands within the area covered by the unit or cooperative agreement become subject to such agreement; and

5. The agreement is fair and reasonable, and contains appropriate provisions to protect and safeguard the rights of all persons having an interest in oil and gas production in the area covered thereby; then the supervisor shall make and enter an order which shall provide that unless such nonconsenting persons shall, with 30 days after service upon such persons of the order in the manner specified by the supervisor, become parties to the agreement by signing or ratifying the same, the right of eminent domain may be exercised as provided in subdivision (c) for the purpose of acquiring the properties of such nonconsenting persons which are found by the

supervisor to be necessary for the initiation and conduct of such repressuring operations

In the event the supervisor shall make findings in accordance with the foregoing, such findings shall be prima facie evidence (1) of the public necessity of the development and operation of the said properties in accordance with the unit or cooperative agreement and of the repressuring operations to be initiated and conducted pursuant to such agreement; and (2) that the acquisition of the properties of the nonconsenting persons which are designated by the supervisor is necessary therefor; and (3) that the repressuring and other operations to be initiated and conducted pursuant to such agreement, and the improvements to be made in connection therewith are planned or located in the manner which will be most compatible with the greatest public good and the least private injury.

The acquisition and use of land, including oil and gas rights therein, and personal property used in the production of oil and gas within a subsidence area for the purposes and by the persons mentioned in this section under the circumstances herein specified, are public uses on behalf of which the right of eminent domain may be exercised.

(c) Subject to the provisions of subdivision (b), the right of eminent domain for the purposes therein mentioned may be exercised by any city, county, or city and county, which has agreed to commit the properties to be acquired to such unit or cooperative agreement, or which has agreed to convey all or a portion of said properties upon acquisition, for a price not less than the cost of acquiring the same, to working interest owners who are parties to such unit or cooperative agreement and who have agreed to commit such properties to said agreement.

Except as otherwise provided in subdivisions (b) and (c), any condemnation action brought hereunder shall be governed by the provisions of Title 7 (commencing at Section 1230.010) of Part 3 of the Code of Civil Procedure.

If a condemnation action or actions to acquire the properties of the nonconsenting persons are promptly commenced and diligently prosecuted to final judgment by which such properties are acquired, no compulsory unit order affecting the area covered by such agreement shall be made by the supervisor under Section 3321 of this article with respect to such area.

SEC. 58. Section 3341 of the Public Resources Code is amended to read:

3341. At the termination of oil and gas production from a unit area established or approved pursuant to this article and the abandonment of attempts to obtain production therefrom, any interested municipal corporation or other public agency may acquire by eminent domain, in the manner provided by law for the condemnation of property for public use by the state, municipal corporation or other public agency, such oil production properties or facilities within the unit area as such municipal corporation or other

public agency may deem necessary or essential to the maintenance of such pressures as will continue to arrest or ameliorate subsidence.

SEC. 59 Section 5301 of the Public Resources Code is amended to read:

5301. Any city or city and county may acquire and hold land for public parks, or public boulevards, or both, by purchase, or by condemnation.

SEC. 60. Article 11 (commencing with Section 8030) is added to Chapter 4 of Part 3 of Division 6 of the Public Resources Code, to read:

Article 11. Exemption From Condemnation

8030. Notwithstanding any other provision of law, all 16th and 36th sections, both surveyed and unsurveyed, owned by the state or the United States, which are now or may hereafter be included within the exterior boundaries of a national reservation, a reserve, or lands withdrawn from public entry, are exempt from taking by eminent domain.

SEC. 61. Section 8402 of the Public Resources Code is amended to read:

8402 Any county may exercise the right of eminent domain to acquire any property necessary or convenient for carrying out the provisions of this chapter.

SEC. 62. Section 25528 of the Public Resources Code is amended to read·

25528. (a) The commission shall require, as a condition of certification of any site and related facility, that the applicant acquire, by grant or contract, the right to prohibit development of privately owned lands in the area of the proposed site which will result in population densities in excess of the maximum population densities which the commission determines, as to the factors considered by the commission pursuant to Section 25511, are necessary to protect public health and safety.

If the applicant is authorized to exercise the right of eminent domain under Article 7 (commencing with Section 610) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant may exercise the right of eminent domain to acquire such development rights as the commission requires be acquired.

(b) In the case of an application for a nuclear facility, the area and population density necessary to insure the public's health and safety designated by the commission shall be that as determined from time to time by the United States Atomic Energy Commission, if the commission finds that such determination is sufficiently definitive for valid land use planning requirements.

(c) The commission shall waive the requirements of the acquisition of development rights by an applicant to the extent that the commission finds that existing governmental land use restrictions are of a type necessary and sufficient to guarantee the maintenance

of population levels and land use development over the lifetime of the facility which will insure the public health and safety requirements set pursuant to this section.

(d) No change in governmental land use restrictions in such areas designated in subdivision (c) of this section by any government agency shall be effective until approved by the commission. Such approval shall certify that the change in land use restrictions is not in conflict with requirements provided for by this section.

(e) It is not the intent of the Legislature by the enactment of this section to take private property for public use without payment of just compensation in violation of the United States Constitution or the Constitution of California.

SEC. 63. Section 25531 of the Public Resources Code is amended to read:

25531. (a) The decisions of the commission on any application of any electric utility for certification of a site and related facility shall be subject to judicial review in the same manner as the decisions of the Public Utilities Commission on the application for a Certificate of Public Convenience and Necessity for the same site and related facility.

(b) No new or additional evidence may be introduced upon review and the cause shall be heard on the record of the commission as certified to by it. The review shall not be extended further than to determine whether the commission has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the United States Constitution or the California Constitution. The findings and conclusions of the commission on questions of fact shall be final and shall not be subject to review, except as provided in this article. Such questions of fact shall include ultimate facts and the findings and conclusions of the commission. A report prepared by, or an approval of, the commission pursuant to Section 25510, 25514, 25516, or 25516.5, or subdivision (b) of Section 25520.5, shall not constitute a decision of the commission subject to judicial review.

(c) Subject to the right of judicial review of decisions of the commission, no court in this state shall have jurisdiction to hear or determine any case or controversy concerning any matter which was, or could have been, determined in a proceeding before the commission, or to stop or delay the construction or operation of any thermal powerplant except to enforce compliance with the provisions of a decision of the commission.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the commission requires pursuant to subdivision (a) of Section 25528, as a condition of certification of any site and related facility, that the applicant acquire development rights, such requirement conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought by the applicant to acquire

such development rights.

(2) If the commission certifies any site and related facility, such certification conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought to acquire such site and related facility.

SEC. 64. Section 221 of the Public Utilities Code is amended to read:

221. "Gas plant" includes all real estate, fixtures, and personal property, owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, underground storage, or furnishing of gas, natural or manufactured, for light, heat, or power.

SEC. 65. Article 7 (commencing with Section 610) is added to Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 7. Eminent Domain

610. This article applies only to a corporation or person that is a public utility.

611. A railroad corporation may condemn any property necessary for the construction and maintenance of its railroad.

612. An electrical corporation may condemn any property necessary for the construction and maintenance of its electric plant.

613. A gas corporation may condemn any property necessary for the construction and maintenance of its gas plant.

614. A heat corporation may condemn any property necessary for the construction and maintenance of its heating plant.

615. A pipeline corporation may condemn any property necessary for the construction and maintenance of its pipeline.

616. A telephone corporation may condemn any property necessary for the construction and maintenance of its telephone line.

617. A telegraph corporation may condemn any property necessary for the construction and maintenance of its telegraph line.

618. A water corporation may condemn any property necessary for the construction and maintenance of its water system.

619. A wharfinger may condemn any property necessary for the construction and maintenance of facilities for the receipt or discharge of freight or passengers.

620. A common carrier, as defined in subdivision (b) of Section 211, may condemn any property necessary for the construction and maintenance of facilities for its transportation of persons or property.

621. A street railroad corporation may condemn any property necessary for the construction and maintenance of its street railroad.

622. (a) As used in this section, "motor carrier" means:

(1) A highway common carrier as defined in Section 213.

(2) A passenger stage corporation as defined in Section 226.

(b) As used in this section, "water carrier" means a common carrier operating upon any waterway in this state between fixed

termini or over a regular route.

(c) A motor carrier or water carrier may condemn any property necessary for the construction and maintenance of terminal facilities for the receipt, transfer, or delivery of the passengers or property it carries or for other terminal facilities of any such carrier.

623. A warehouseman may condemn any property necessary for the construction and maintenance of its facilities for storing property.

624. A sewer system corporation may condemn any property necessary for the construction and maintenance of its sewer system.

SEC. 66. Article 7 (commencing with Section 861) is added to Chapter 4 of Part 1 of Division 1 of the Public Utilities Code, to read:

Article 7. Controversies Concerning Relocation of Utility Improvements

861. (a) As used in this section, "special law water district" means the Santa Clara Valley Water District and the Yuba-Bear River Basin Authority and, if created by an uncodified special law, any of the following: a county flood control district, a county flood control and water district, a county flood control and water conservation district, a county water conservation and flood control district, or a county water agency.

(b) Whenever by court order or judgment in an eminent domain proceeding or by agreement a special law water district is required to relocate any improvements of a public utility, if the special law water district and the public utility fail to agree as to the character or location of the new improvements to be relocated by the special law water district, the character and location of such new improvements and any other controversy relating thereto shall be submitted to and determined by the Public Utilities Commission in the manner prescribed in Chapter 6 (commencing with Section 1201).

SEC 67. Section 1503 of the Public Utilities Code is amended to read:

1503 The Legislature finds and declares that whenever a political subdivision constructs facilities to provide or extend water service, or provides or extends such service, to any service area of a private utility with the same type of service, such an act constitutes a taking of the property of the private utility for a public purpose to the extent that the private utility is injured by reason of any of its property employed in providing the water service being made inoperative, reduced in value or rendered useless to the private utility for the purpose of providing water service to the service area.

SEC. 68 Section 2729 is added to the Public Utilities Code, to read:

2729. A mutual water company may exercise the power of eminent domain for water, water rights, canals, ditches, dams, poundings, flumes, aqueducts, and pipes for irrigation of lands

furnished with water by such company.

SEC. 69. Section 7526 of the Public Utilities Code is amended to read:

7526. Every railroad corporation has all of the following powers:

(a) To make such examination and surveys as are necessary to the selection of the most advantageous route for the railroad. The officers, agents, and employees of the corporation may enter upon the lands or waters of any person, for this purpose, subject to liability for all damages which they do thereto

(b) To receive, hold, take, and convey, by deed or otherwise, as a natural person, such voluntary grants and donations of real estate and other property as are made to it to aid and encourage the construction, maintenance, and accommodation of the railroad.

(c) To purchase, or by voluntary grants or donations to receive, enter, take possession of, hold, and use all such real estate and other property as is necessary for the construction and maintenance of such railroad, and for all stations, depots, and other purposes necessary to successfully work and conduct the business of the road.

(d) To lay out its road, not exceeding 10 rods wide, and to construct and maintain it, with one or more tracks, and with such appendages and adjuncts as are necessary for the convenient use of the road.

(e) To construct its roads across, along, or upon any stream of water, watercourse, roadstead, bay, navigable stream, street, avenue, or highway, or across any railway, canal, ditch, or flume which the route of its road intersects, crosses, or runs along, in such manner as to afford security for life and property The corporation shall restore the stream or watercourse, road, street, avenue, highway, railroad, canal, ditch, or flume thus intersected to its former state of usefulness as near as may be, or so that the railroad does not unnecessarily impair its usefulness or injure its franchise.

(f) To cross, intersect, join, or unite its railroad with any other railroad, either before or after construction, at any point upon its route, and upon the grounds of the other railroad corporation, with the necessary turnouts, sidings, and switches, and other conveniences in furtherance of the objects of its connections. Every corporation whose railroad is intersected by any new railroad shall unite with the owners of the new railroad in forming the intersections and connections, and grant facilities therefor. If the two corporations cannot agree upon the amount of compensation to be made therefor, or the points or the manner of the crossings, intersections, and connections, such matters shall be ascertained and determined as is provided in Part 1 (commencing with Section 201) of Division 1.

(g) To acquire lands, timber, stone, gravel, or other materials to be used in the construction and maintenance of its road, and all necessary appendages and adjuncts

(h) To change the line of its road, in whole or in part, whenever a majority of the directors so determine, as provided in Section 7531,

but the change shall not vary the general route of the road, as contemplated in its articles of incorporation.

SEC. 70. Section 7557 is added to the Public Utilities Code, to read:

7557. Where any railroad or street railroad tracks are located on property that a public entity is authorized to acquire by eminent domain for road, highway, boulevard, street, or alley purposes or on property that a city, county, or municipal water district is authorized to acquire by eminent domain for the right-of-way of a public utility that it will construct, complete, and maintain, the plaintiff may require the relocation or removal of such tracks by exercise of the power of eminent domain. In such case, the complaint shall contain a description and map of the location and proposed location of such tracks.

SEC. 71. Section 21634 of the Public Utilities Code is repealed.

SEC. 72. Article 2.6 (commencing with Section 21652) is added to Chapter 4 of Part 1 of Division 9 of the Public Utilities Code, to read:

Article 2.6. Hazard Elimination; Flight Disturbance

21652. (a) Any person authorized to exercise the power of eminent domain for airport purposes may acquire by purchase, gift, devise, lease, condemnation, or otherwise:

(1) Any property necessary to permit the safe and efficient operation of the airport, or to permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards, or to prevent the establishment of airport hazards.

(2) Airspace or an easement in such airspace above the surface of property where necessary to permit imposition upon such property of excessive noise, vibration, discomfort, inconvenience, interference with use and enjoyment, and any consequent reduction in market value, due to the operation of aircraft to and from the airport.

(3) Remainder property underlying property taken pursuant to paragraph (2), where permitted by Section 1240 410 of the Code of Civil Procedure.

(b) As used in this section, "property" includes real and personal property and any right or interest therein, whether within, beyond, adjacent to, or in the vicinity of, the boundaries of an airport or airport site, and, by way of illustration and not by way of limitation, includes air rights, airspace, air easements, and easements in airport hazards.

21653. Any person authorized to exercise the power of eminent domain for airport purposes may provide, by purchase, gift, devise, lease, condemnation, or otherwise, for the removal or relocation of any airport hazard or the removal or relocation of all facilities, structures, and equipment that may interfere with the location, expansion, development, or improvement of the airport and other

air navigation facilities or with the safe approach thereto and takeoff therefrom by aircraft. Any person acting under authority of this section shall pay the cost of such removal or relocation.

SEC. 73. Section 760 of the Streets and Highways Code is amended to read:

760. Whenever it is determined by a four-fifths vote of the membership of the board of supervisors of any county that such acquisition or contribution, or both, will promote the interests of the county and such acquisition or contribution, or both, is recommended in writing by the department, the board thereafter may, by resolution passed by a four-fifths vote of its members, determine:

(a) To acquire any real property or interest therein needed for state highway purposes and described in such recommendation The board shall proceed, if necessary, to condemn any such real property or interest therein. The title to such property or interest may be taken in the name of the state or the county. The resolution of the board is the only preliminary procedure required prior to the acquisition of such property or interest, or to the commencement of such condemnation proceeding; but if the acquisition is by eminent domain, the resolution shall be one that satisfies the requirements of Article 2 (commencing with Section 1245.210) of Chapter 4 of Title 7 of Part 3 of the Code of Civil Procedure.

(b) To contribute bridges, fencing, money, labor, materials, and appurtenances toward the construction of state highways within the limits of the county.

Such acquisitions or contributions, or both, shall be for the use of the state as provided in Section 762.

SEC. 74. Section 858 of the Streets and Highways Code is amended to read:

858. The department shall not make any change in the physical grade of said highway affecting any property as to which an objection has been filed until it has been finally determined by a court of competent jurisdiction that the objection filed is without merit or until the probable compensation has been deposited for each person filing an objection as provided in Article 1 (commencing with Section 1255.010) of Chapter 6 of, or the amount of the award has been deposited as provided in Article 2 (commencing with Section 1268.110) of Chapter 11 of, Title 7 of Part 3 of the Code of Civil Procedure.

SEC. 75. Section 869 of the Streets and Highways Code is amended to read:

869. If an objection is filed the department shall not perform any work on the property claimed by the objector until it has been finally determined by a court of competent jurisdiction that the objection filed is without merit or until the probable compensation has been deposited for the person filing the objection as provided in Article 1 (commencing with Section 1255.010) of Chapter 6 of, or the amount of the award has been deposited as provided in Article 2

(commencing with Section 1268.110) of Chapter 11 of, Title 7 of Part 3 of the Code of Civil Procedure. This section shall not apply insofar as any objector may make claim to a part of the established traveled way.

SEC. 76. Section 943 of the Streets and Highways Code is amended to read:

943. Such board may:

(a) Acquire any property necessary for the uses and purposes of county highways When eminent domain proceedings are necessary, the board shall require the district attorney to institute such proceedings. The expense of and award in such proceedings may be paid from the road fund or the general fund of the county, or the road fund of any district benefited.

(b) Lay out, construct, improve, and maintain county highways.

(c) Incur a bonded indebtedness for any of such purposes, subject to the provisions of Section 944.

(d) Construct and maintain stock trails approximately paralleling any county highway, retain and maintain for stock trails the right-of-way of any county highway which is superseded by relocation. Such stock trail shall not be included in the term "maintained mileage of county roads" as that term is used in Chapter 3 (commencing with Section 2100) of Division 3 of this code.

SEC. 77. Section 943.1 of the Streets and Highways Code is repealed.

SEC. 78. Section 943.2 of the Streets and Highways Code is repealed.

SEC. 79. Section 943.4 of the Streets and Highways Code is repealed.

SEC. 80. Section 970 of the Streets and Highways Code is repealed.

SEC. 81. Chapter 3.5 (commencing with Section 1050) of Division 2 of the Streets and Highways Code is repealed.

SEC. 82. Section 5100 of the Streets and Highways Code is amended to read:

5100. All streets, places, public ways, or property, or rights-of-way, or tidelands, or submerged lands owned by any city, open or dedicated to public use, and any property for which an order for possession prior to judgment has been obtained, and all tidelands or submerged lands to which all the right, title and interest of the state have been granted to any city, and all tidelands or submerged lands which have been leased by the state to any city for the construction of improvements authorized by subdivision (g) of Section 5101, are open public streets, places, public ways, or property or rights-of-way owned by the city, for the purposes of this division, and the legislative body of the city may establish and change the grades of the respective ways, properties, and rights-of-way hereinbefore enumerated and fix the width thereof and is hereby invested with jurisdiction to order to be done therein, over or thereon, either singly or in any combination thereof, any of the work

mentioned in this division under the proceedings described in this part.

SEC. 83. Section 5101 of the Streets and Highways Code is amended to read:

5101. Whenever in the opinion of the legislative body the public interest or convenience may require, it may order the whole or any portion, either in length or in width, of any one or more of the streets, places, public ways, or property, easements, or rights-of-way, or tidelands, or submerged lands owned by any city, or tidelands or submerged lands leased by the state to any city for the construction of improvements authorized by subdivision (g), open or dedicated to public use, and any property for which an order for possession prior to judgment has been obtained, to be improved by or have constructed therein, over or thereon, either singly or in any combination thereof, any of the following:

(a) The grading or regrading, the paving or repaving, the planking or replanking, the macadamizing or remacadamizing, the graveling or regraveling, the oiling or reoiling thereof.

(b) The construction or reconstruction of sidewalks, crosswalks, steps, safety zones, platforms, seats, statuary, fountains, parks and parkways, recreation areas, including all structures, buildings, and other facilities necessary to make parks and parkways and recreation areas useful for the purposes for which intended, culverts, bridges, curbs, gutters, tunnels, subways or viaducts.

(c) Sanitary sewers or instrumentalities of sanitation, together with the necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, tunnels, channels or other appurtenances.

(d) Drains, tunnels, sewers, conduits, culverts and channels for drainage purposes; with necessary outlets, cesspools, manholes, catch basins, flush tanks, septic tanks, disposal plants, connecting sewers, ditches, drains, conduits, channels and appurtenances.

(e) Poles, posts, wires, pipes, conduits, tunnels, lamps and other suitable or necessary appliances for the purpose of lighting said streets, places or public ways of any such city or property or rights-of-way owned by any such city, or for the purpose of furnishing electricity and electric service or telephone service to property within a city.

(f) Pipes, hydrants and appliances for fire protection.

(g) Breakwaters, levees, bulkheads, groins, and walls of rock or other material to protect the streets, places, public ways and other property in any such city, from overflow by water, or to prevent beach erosion or to promote accretion to beaches.

(h) Wells, pumps, dams, reservoirs, storage tanks, channels, tunnels, conduits, pipes, hydrants, meters or other appurtenances for supplying or distributing a domestic water supply.

(i) Mains, services, pipes, fittings, valves, regulators, governors, meters, drips, drains, tanks, ditches, tunnels, conduits, channels, or other appurtenances for supplying or distributing a domestic or

industrial gas supply.

(j) The construction or maintenance of bomb shelters or fallout shelters which are primarily designed to protect and shelter the population from conventional or nuclear bomb or missile warhead explosions, shellfire, radiation, and fallout in the event of an enemy attack.

(k) Retaining walls, embankments, buildings and any other structures or facilities necessary or suitable in connection with any of the work mentioned in this section.

(*l*) The planting of trees, shrubs or other ornamental vegetation.

(m) The construction, repairing, or improving of public mooring places for watercraft, the building, repairing and improving of wharves, piers, docks, slips, quays, moles, or other utilities, structures, and appliances necessary or convenient for the promotion or accommodation of commerce, navigation and the protection of lands within said city, and for aiding and securing access to the waters of said lands to the people of the State of California, in the exercise of their rights to fish, or for the extension of public streets or places.

(n) Compaction of land, change of grade or contours, construction of caissons, retaining walls, drains and other structures suitable for the purpose of stabilizing land.

(o) All other work which may be deemed necessary to improve the whole or any portion of such streets, places, public ways, property, easements or rights-of-way owned by such city.

(p) All other work auxiliary to any of the above, which may be required to carry out the same.

SEC. 84. Section 5104 of the Streets and Highways Code is amended to read:

5104. If the written consent of the owner of the property is first obtained, work may be done on private property to eliminate any disparity in level or size between the improvement and private property, provided that the legislative body determines in the resolution of intention to order the improvement that it is in the public interest and more economical to do such work on private property than to adjust the work on public property to eliminate such disparity. The actual cost of such work may be added to the assessment of the lot on which the work is done. Nothing in this section limits or restricts the authority of the legislative body to make agreements authorized by Section 1263.610 of the Code of Civil Procedure.

SEC. 85. Section 5661 of the Streets and Highways Code is amended to read:

5661. No proceedings taken or had under this division shall ever be held to be invalid on the ground that the street, right-of-way, public property or any portion thereof, upon which the work or any part thereof is or was done has not been lawfully dedicated or acquired; provided, the same is lawfully dedicated or acquired, or an order for possession prior to judgment has been obtained.

SEC. 86. Section 10100.1 of the Streets and Highways Code is

amended to read:

10100.1. If the written consent of the owner of the property is first obtained, work may be done on private property to eliminate any disparity in level or size between the improvement and private property, provided that the legislative body determines in the resolution of intention to order the improvement that it is in the public interest and more economical to do such work on private property than to adjust the work on public property to eliminate such disparity. The actual cost of such work may be added to the assessment of the lot on which the work is done. Nothing in this section limits or restricts the authority of the legislative body to make agreements authorized by Section 1263.610 of the Code of Civil Procedure.

SEC. 87. Section 11400 of the Streets and Highways Code is amended to read:

11400. If following the hearing the legislative body shall determine that the pedestrian mall shall be established, and if at that time there remain any written claims for damages which have not been allowed pursuant to Section 11310 or which have not been withdrawn, the legislative body shall direct that an action or actions be brought in the superior court in the name of the city by the county counsel, district attorney, or city attorney, as the case may be, or other attorney designated by the legislative body for a determination of the damages, if any, to which the claimant may legally be entitled because of the establishment of the pedestrian mall. Such action shall be in the nature of a proceeding in eminent domain for the condemnation of the right or rights in real property, the taking of which by the establishment of the pedestrian mall results in the damages claimed. Except as may otherwise be provided in this part, such action and proceeding shall be governed so far as the same may be made applicable by the provisions relating to proceedings in eminent domain. Except as provided in Article 2 (commencing with Section 1245.210) of Chapter 4 of Title 7 of Part 3 of the Code of Civil Procedure, in any such action the resolution of intention adopted pursuant to this part and the resolution adopted under Section 11311 conclusively establish the matters referred to in Section 1240.030 of the Code of Civil Procedure.

SEC. 88. Chapter 2 (commencing with Section 7020) of Division 4 of the Water Code is repealed.

SEC. 89. This act shall become operative only if Assembly Bill No. 11 is chaptered and becomes effective January 1, 1976, and, in such case, shall become operative at the same time as Assembly Bill No. 11.

SEC. 90. Sections 8.1, 40.1, 40.2, and 40.3 of this act shall become operative only if Assembly Bill No. 11 and Senate Bill No. 576 both are chaptered, and, in such case, shall become operative at the same time as Assembly Bill No. 11 or Senate Bill No. 576, whichever becomes operative later.

CHAPTER 1241

An act to amend Sections 352, 370, 371, 376, 377, 379, 690.6, 1164 and 1276 of, and to repeal Section 341.5 of, the Code of Civil Procedure, relating to rights based upon sexual identity.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 341.5 of the Code of Civil Procedure is repealed.

SEC. 1.5. Section 352 of the Code of Civil Procedure is amended to read:

352. (a) If a person entitled to bring an action, mentioned in Chapter 3 of this title, be, at the time the cause of action accrued, either:

1. Under the age of majority; or,
2 Insane; or,
3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal court for a term less than for life;

the time of such disability is not a part of the time limited for the commencement of the action.

(b) This section does not apply to an action against a public entity or public employee upon a cause of action for which a claim is required to be presented in accordance with Chapter 1 (commencing with Section 900) or Chapter 2 (commencing with Section 910) of Part 3, or Chapter 3 (commencing with Section 950) of Part 4, of Division 3.6 of Title 1 of the Government Code. This subdivision shall not apply to any claim presented to a public entity prior to January 1, 1971.

SEC. 2. Section 370 of the Code of Civil Procedure is amended to read:

370. A married person may be sued without his or her spouse being joined as a party, and may sue without his or her spouse being joined as a party in all actions.

SEC. 3. Section 371 of the Code of Civil Procedure is amended to read:

371. If a husband and wife are sued together, each may defend for his or her own right, but if one spouse neglects to defend, the other spouse may defend for that spouse's right also.

SEC. 4. Section 376 of the Code of Civil Procedure is amended to read:

376. The parents of a legitimate unmarried minor child, acting jointly, may maintain an action for injury to such child caused by the wrongful act or neglect of another. If either parent shall fail on demand to join as plaintiff in such action or is dead or cannot be found, then the other parent may maintain such action and the

parent, if living, who does not join as plaintiff must be joined as a defendant and, before trial or hearing of any question of fact, must be served with summons either in the manner provided by law for the service of a summons in a civil action or by sending a copy of the summons and complaint by registered mail with proper postage prepaid addressed to such parent's last known address with request for a return receipt. If service is made by registered mail the production of a return receipt purporting to be signed by the addressee creates a rebuttable presumption that such summons and complaint have been duly served. The presumption established by this section is a presumption affecting the burden of producing evidence. The respective rights of the parents to any award shall be determined by the court.

A parent may maintain an action for such an injury to his or her illegitimate unmarried minor child if a guardian has not been appointed. Where such parent who does not have care, custody or control of the child brings the action, the parent who has care, custody or control of the child shall be served with the summons either in the manner provided by law for the serving of a summons in a civil action or by sending a copy of the summons and complaint by registered mail, with proper postage prepaid, addressed to the last known address of such parent, with request for a return receipt. If service is made by registered mail, the production of a return receipt purporting to be signed by the addressee creates a rebuttable presumption that the summons and complaint have been duly served. The presumption established by this section is a presumption affecting the burden of producing evidence. The respective rights of the parents to any award shall be determined by the court.

The father of an illegitimate child who maintains an action under this section shall have acknowledged in writing prior to the child's injury, in the presence of a competent witness, that he is the father of the child, or, prior to the child's injury, have been judicially determined to be the father of the child.

A parent of an illegitimate child who does not maintain an action under this section may be joined as a party thereto.

A guardian may maintain an action for such an injury to his or her ward.

Any such action may be maintained against the person causing the injury. If any other person is responsible for any such wrongful act or neglect the action may also be maintained against such other person. The death of the child or ward shall not abate the parents' or guardian's cause of action for his or her injury as to damages accruing before his or her death.

In every action under this section, such damages may be given as under all of the circumstances of the case may be just; except that in any action maintained after the death of the child or ward or against the executor or administrator of the person causing the injury, the damages recoverable shall be as provided in Section 573 of the Probate Code.

If an action arising out of the same wrongful act or neglect may be maintained pursuant to Section 377 for wrongful death of any such child, the action authorized by this section shall be consolidated therewith for trial on motion of any interested party.

SEC. 5. Section 377 of the Code of Civil Procedure is amended to read:

377. When the death of a person not being a minor, or when the death of a minor person who leaves surviving him or her either a husband or wife or child or children or father or mother, is caused by the wrongful act or neglect of another, his or her heirs, and his or her dependent parents, if any, who are not heirs, or personal representatives on their behalf may maintain an action for damages against the person causing the death, or in case of the death of such wrongdoer, against the personal representative of such wrongdoer, whether the wrongdoer dies before or after the death of the person injured. If any other person is responsible for any such wrongful act or neglect, the action may also be maintained against such other person, or in case of his or her death, his or her personal representatives. In every action under this section, such damages may be given as under all the circumstances of the case, may be just, but shall not include damages recoverable under Section 573 of the Probate Code. The respective rights of the heirs and dependent parents in any award shall be determined by the court. Any action brought by the personal representatives of the decedent pursuant to the provisions of Section 573 of the Probate Code may be joined with an action arising out of the same wrongful act or neglect brought pursuant to the provisions of this section. If an action be brought pursuant to the provisions of this section and a separate action arising out of the same wrongful act or neglect be brought pursuant to the provisions of Section 573 of the Probate Code, such actions shall be consolidated for trial on the motion of any interested party.

SEC. 5.5. Section 377 of the Code of Civil Procedure is amended to read:

377. (a) When the death of a person is caused by the wrongful act or neglect of another, his or her heirs or personal representatives on their behalf may maintain an action for damages against the person causing the death, or in case of the death of such wrongdoer, against the personal representative of such wrongdoer, whether the wrongdoer dies before or after the death of the person injured. If any other person is responsible for any such wrongful act or neglect, the action may also be maintained against such other person, or in case of his or her death, his or her personal representatives. In every action under this section, such damages may be given as under all the circumstances of the case, may be just, but shall not include damages recoverable under Section 573 of the Probate Code. The respective rights of the heirs in any award shall be determined by the court. Any action brought by the personal representatives of the decedent pursuant to the provisions of Section 573 of the Probate Code may be joined with an action arising out of the same wrongful act or

neglect brought pursuant to the provisions of this section If an action be brought pursuant to the provisions of this section and a separate action arising out of the same wrongful act or neglect be brought pursuant to the provisions of Section 573 of the Probate Code, such actions shall be consolidated for trial on the motion of any interested party.

(b) For the purposes of subdivision (a), "heirs" mean only the following:

(1) Those persons who would be entitled to succeed to the property of the decedent according to the provisions of Division 2 (commencing with Section 200) of the Probate Code, and

(2) Whether or not qualified under paragraph (1), if they were dependent on the decedent, the putative spouse, children of the putative spouse, stepchildren, and parents. As used in this paragraph, "putative spouse" means the surviving spouse of a void or voidable marriage who is found by the court to have believed in good faith that the marriage to the decedent was valid.

Nothing in this subdivision shall be construed to change or modify the definition of "heirs" under any other provision of law.

SEC. 6. Section 379 of the Code of Civil Procedure is amended to read:

379. (a) All persons may be joined in one action as defendants if there is asserted against them:

(1) Any right to relief jointly, severally, or in the alternative, in respect of or arising out of the same transaction, occurrence, or series of transactions or occurrences and if any question of law or fact common to all these persons will arise in the action; or

(2) A claim, right, or interest adverse to them in the property or controversy which is the subject of the action.

(b) It is not necessary that each defendant be interested as to every cause of action or as to all relief prayed for. Judgment may be given against one or more defendants according to their respective liabilities.

(c) Where the plaintiff is in doubt as to the person from whom he or she is entitled to redress, he or she may join two or more defendants, with the intent that the question as to which, if any, of the defendants is liable, and to what extent, may be determined between the parties.

SEC. 6.5. Section 690.6 of the Code of Civil Procedure is amended to read:

690.6. (a) Except as provided in Section 11489 of the Welfare and Institutions Code, all of the earnings of the debtor received for his or her personal services shall be exempt from levy of attachment without filing a claim for exemption as provided in Section 690.50.

(b) One-half or such greater portion as is allowed by statute of the United States, of the earnings of the debtor received for his or her personal services rendered at any time within 30 days next preceding the date of a withholding by the employer under Section 682.3, shall be exempt from execution without filing a claim for exemption as

provided in Section 690.50.

(c) All earnings of the debtor received for his or her personal services rendered at any time within 30 days next preceding the date of a withholding by the employer under Section 682.3, if necessary for the use of the debtor's family residing in this state and supported in whole or in part by the debtor, unless the debts are:

(1) Incurred by the debtor, his or her spouse, or his or her family for the common necessaries of life.

(2) Incurred for personal services rendered by any employee or former employee of the debtor.

(d) The court shall determine the priority and division of payment among all of the creditors of a debtor who have levied an execution upon nonexempt earnings upon such basis as is just and equitable.

(e) Any creditor, upon motion, shall be entitled to a hearing in the court in which the action is pending or from which the writ issued for the purpose of determining the priority and division of payment among all the creditors of the debtor who have levied an execution upon nonexempt earnings pursuant to this section.

SEC. 7. Section 690.6 of the Code of Civil Procedure, as amended by Chapter 1516 of the Statutes of 1974, is amended to read:

690.6. (a) One-half or such greater portion as is allowed by statute of the United States, of the earnings of the debtor received for his or her personal services rendered at any time within 30 days next preceding the date of a withholding by the employer under Section 682.3, shall be exempt from execution without filing a claim for exemption as provided in Section 690.50.

(b) All earnings of the debtor received for his or her personal services rendered at any time within 30 days next preceding the date of a withholding by the employer under Section 682.3, if necessary for the use of the debtor's family residing in this state and supported in whole or in part by the debtor, unless the debts are:

(1) Incurred by the debtor, his or her spouse, or his or her family for the common necessaries of life.

(2) Incurred for personal services rendered by any employee or former employee of the debtor.

(c) The court shall determine the priority and division of payment among all of the creditors of a debtor who have levied an execution upon nonexempt earnings upon such basis as is just and equitable.

(d) Any creditor, upon motion, shall be entitled to a hearing in the court in which the action is pending or from which the writ issued for the purpose of determining the priority and division of payment among all the creditors of the debtor who have levied an execution upon nonexempt earnings pursuant to this section.

SEC. 8. Section 1164 of the Code of Civil Procedure is amended to read:

1164. No person other than the tenant of the premises and subtenant, if there be one, in the actual occupation of the premises

when the complaint is filed, need be made parties defendant in the proceeding, nor shall any proceeding abate, nor the plaintiff be nonsuited for the nonjoinder of any person who might have been made party defendant, but when it appears that any of the parties served with process, or appearing in the proceeding, are guilty of the offense charged, judgment must be rendered against him or her. In case a defendant has become a subtenant of the premises in controversy, after the service of the notice provided for by subdivision 2 of Section 1161 of this code, upon the tenant of the premises, the fact that such notice was not served on each subtenant shall constitute no defense to the action. All persons who enter the premises under the tenant, after the commencement of the suit, shall be bound by the judgment, the same as if he or they had been made party to the action.

SEC. 9. Section 1276 of the Code of Civil Procedure is amended to read:

1276. All applications for change of names must be made to the superior court of the county where the person whose name is proposed to be changed resides, by petition, signed by such person; or if such person is under 18 years of age, by one of the parents, if living, or if both be dead, then by the guardian; and if there be no guardian, then by some near relative or friend.

The petition must specify the place of birth and residence of such person, his or her present name, the name proposed, and the reason for such change of name, and must, if neither parent of such person is living, name, as far as known to the petitioner, the near relatives of such person, and their place of residence.

If such person is under 18 years of age and the petition is signed by only one parent, the petition must specify the address, if known, of the other parent if living.

If such person is 12 years of age or over, has been relinquished to an adoption agency by his or her parent or parents, and has not been legally adopted, the petition shall be signed by such person and the adoption agency to which such person was relinquished. The near relatives of such a relinquished person and their place of residence shall not be included in the petition unless they are known to the person whose name is proposed to be changed.

SEC. 9.3. Section 6.5 of this act shall be operative until the operative date of Chapter 1516 of the Statutes of 1974, and on that date is of no force and effect.

SEC. 9.5. Section 7 of this act shall become operative on the operative date of Chapter 1516 of the Statutes of 1974.

SEC. 10. It is the intent of the Legislature, if this bill and Assembly Bill No. 428 are both chaptered and become effective January 1, 1976, both bills amend Section 377 of the Code of Civil Procedure, and this bill is chaptered after Assembly Bill No. 428, that the amendments to Section 377 proposed by both bills be given effect and incorporated in Section 377 in the form set forth in Section 5.5 of this act. Therefore, Section 5.5 of this act shall become operative

only if this bill and Assembly Bill No. 428 are both chaptered and become effective January 1, 1976, both amend Section 377, and this bill is chaptered after Assembly Bill No. 428, in which case Section 5 of this act shall not become operative.

CHAPTER 1242

An act to add Sections 73561.1, 73561.2, 74221.1, and 74221.2 to the Government Code, relating to municipal courts

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 73561 1 is added to the Government Code, to read·

73561 1. There shall be one commissioner. Notwithstanding any other provision of law the first commissioner shall be any person who has been a justice court judge for 10 years within the 12 years immediately preceding the consolidation of the Pacific Grove Justice Court District into the Monterey-Carmel Municipal Court District

SEC. 2. Section 73561.2 is added to the Government Code, to read:

73561.2. Notwithstanding Section 72190, the commissioner shall exercise, within the jurisdiction of the court, all the powers and perform all the duties authorized by law The commissioner shall receive a salary of 50 percent less than that received by a judge of the municipal court. The commissioner shall be entitled to all employee benefits that are provided for or made applicable to the other employees of the court.

SEC. 3 Section 74221.1 is added to the Government Code, to read:

74221.1. There shall be two commissioners. Notwithstanding any other provision of law each of the first commissioners shall be any person who has been a justice court judge for 10 years within the 12 years immediately preceding the consolidation of the Castroville-Pajaro Justice Court District or the King City-Greenfield Justice Court District, or both, into the Salinas Municipal Court District.

SEC. 4. Section 74221 2 is added to the Government Code, to read·

74221 2. Notwithstanding Section 72190, each commissioner shall exercise, within the jurisdiction of the court, all the powers and perform all the duties authorized by law. Each commissioner shall receive a salary of 50 percent less than that received by a judge of the municipal court. Each commissioner shall be entitled to all employee benefits that are provided for or made applicable to the

other employees of the court.

SEC. 5. There are no state-mandated local costs which may be incurred by a local agency under this act and require reimbursement by the state under Section 2231 of the Revenue and Taxation Code, because the affected local agency has requested the Legislature to revise state law in accordance with the provisions of this act.

CHAPTER 1243

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

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. The sum of four hundred sixteen thousand dollars ($416,000) is hereby appropriated from the General Fund to the California Highway Commission to match federal funds for the construction of a median barrier on, installation of traffic control signals on, and channelization of, that portion of State Highway Route 101 from seven-tenths of a mile north of Cochran Road in Morgan Hill to one-half mile south of Ford Road in San Jose.

SEC. 2. Not later than July 1, 1977, the California Highway Commission shall reimburse the General Fund from the State Highway Account in the State Transportation Fund the amount of the appropriation made pursuant to Section 1 of this act.

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

In order that required safety improvements on that portion of State Highway Route 101 specified in Section 1 of this act may be completed as soon as possible in order to reduce the extremely high fatality rate thereon, it is necessary that this act take effect immediately.

CHAPTER 1244

An act to amend Sections 196, 196a, 197, and 224 of, and to add Part 7 (commencing with Section 7000) to Division 4 of, and to repeal Sections 195, 200, 215, 216, 230, 231, and 4453 of, the Civil Code, to amend Sections 605, 621, 1310, 1311, 1312, 1313, 1315, and 1316 of, and to repeal Section 661 of, the Evidence Code, to amend Sections 10450

and 10456 of, to add Sections 10450.5 and 10456.5 to, and to repeal Article 5 (commencing with Section 10440), of Chapter 8 of Division 9 of the Health and Safety Code, and to amend Section 1403 of, to add Section 255 to, and to repeal Sections 255 and 256 of, the Probate Code, relating to children.

[Approved by Governor October 1, 1975. Filed with Secretary of State October 1, 1975.]

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

SECTION 1. Section 195 of the Civil Code is repealed.

SEC. 2. Section 196 of the Civil Code is amended to read:

196. The parent entitled to the custody of a child must give him support and education suitable to his circumstances. If the support and education which the father of a child is able to give are inadequate, the mother must assist him to the extent of her ability.

SEC. 2.5. Section 196a of the Civil Code is amended to read:

196a. The father as well as the mother of a child must give him support and education suitable to his circumstances. A civil suit to enforce such obligations may be maintained in behalf of a minor child, and in such action the court shall have power to order and enforce performance thereof, the same as in a suit for dissolution of marriage.

SEC. 3. Section 197 of the Civil Code is amended to read:

197. The mother of an unmarried minor child is entitled to its custody, services and earnings. The father of the child, if presumed to be the father under subdivision (a) of Section 7004, is equally entitled to the custody, services and earnings of the unmarried minor. If either the father or mother be dead or unable or refuse to take the custody or has abandoned his or her family, the other is entitled to its custody, services and earnings.

SEC. 4. Section 200 of the Civil Code is repealed.

SEC. 5. Section 215 of the Civil Code is repealed.

SEC. 6. Section 216 of the Civil Code is repealed.

SEC. 7. Section 224 of the Civil Code is amended to read:

224. A child having a presumed father under subdivision (a) of Section 7004 cannot be adopted without the consent of its parents if living; however, if one parent has been awarded custody by judicial decree, or has custody by agreement of the parents, and the other parent for a period of one year willfully fails to communicate with and to pay for the care, support, and education of such child when able to do so, then the parent having custody alone may consent to such adoption, but only after the parent not having custody has been served with a copy of a citation in the manner provided by law for the service of a summons in a civil action that requires him or her to appear at the time and place set for the appearance in court under Section 227, failure of a parent to pay for the care, support and education of such child for such period of one year or failure of a

parent to communicate with such child for such period of one year is prima facie evidence that such failure was willful and without lawful excuse; nor a child with no presumed father under subdivision (a) of Section 7004 without the consent of its mother if living; except that the consent of a father or mother is not necessary in the following cases:

1. When such father or mother has been judicially deprived of the custody and control of such child (a) by order of the court declaring such child to be free from the custody and control of either or both of his parents pursuant to Chapter 4 (commencing with Section 232) of Title 2 of Part 3 of Division 1 of this code, or (b) by similar order of the court of another jurisdiction, pursuant to any law of that jurisdiction authorizing such order; or when such father or mother has, in a judicial proceeding in another jurisdiction, voluntarily surrendered his right to the custody and control of such child pursuant to any law of that jurisdiction provided for such surrender.

2. Where such father or mother of any child has deserted the child without provision for its identification.

3. Where such father or mother of any child has relinquished such child for adoption as provided in Section 224m; or where such father or mother has relinquished such child for adoption to a licensed or authorized child-placing agency in another jurisdiction pursuant to the law of that jurisdiction.

SEC. 8. Section 230 of the Civil Code is repealed.

SEC. 9. Section 231 of the Civil Code is repealed.

SEC. 10. Section 4453 of the Civil Code is repealed.

SEC. 11. Part 7 (commencing with Section 7000) is added to Division 4 of the Civil Code, to read:

PART 7. UNIFORM PARENTAGE ACT

7000. This part shall be known and may be cited as the "Uniform Parentage Act."

7001. As used in this part, "parent and child relationship" means the legal relationship existing between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship.

7002. The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents.

7003. The parent and child relationship may be established as follows:

(1) Between a child and the natural mother it may be established by proof of her having given birth to the child, or under this part.

(2) Between a child and the natural father it may be established under this part.

(3) Between a child and an adoptive parent it may be established by proof of adoption.

7004. (a) A man is presumed to be the natural father of a child if he meets the conditions as set forth in Section 621 of the Evidence Code or in any of the following subdivisions:

(1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court.

(2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and,

(i) If the attempted marriage could be declared invalid only by a court, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce; or

(ii) If the attempted marriage is invalid without a court order, the child is born within 300 days after the termination of cohabitation.

(3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and

(i) With his consent, he is named as the child's father on the child's birth certificate, or

(ii) He is obligated to support the child under a written voluntary promise or by court order.

(4) He receives the child into his home and openly holds out the child as his natural child.

(b) Except as provided in Section 621 of the Evidence Code, a presumption under this section is a rebuttable presumption affecting the burden of proof and may be rebutted in an appropriate action only by clear and convincing evidence. If two or more presumptions arise under this section which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man.

7005. (a) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the State Department of Health, where it shall be kept confidential and in a sealed file. However, the physician's failure to do so does not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or

elsewhere, are subject to inspection only upon an order of the court for good cause shown.

(b) The donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived.

7006. (a) A child, the child's natural mother, or a man presumed to be his father under paragraph (1), (2), or (3) of subdivision (a) of Section 7004, may bring an action as follows:

(1) At any time for the purpose of declaring the existence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004.

(2) For the purpose of declaring the nonexistence of the father and child relationship presumed under paragraph (1), (2), or (3) of subdivision (a) of Section 7004 only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(b) Any interested party may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship presumed under paragraph (4) of subdivision (a) of Section 7004.

(c) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under Section 7004 or whose presumed father is deceased may be brought by the child or personal representative of the child, the State Department of Health, the mother or the personal representative or a parent of the mother if the mother has died or is a minor, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor.

(d) Regardless of its terms, an agreement between an alleged or presumed father and the mother or child does not bar an action under this section.

(e) An action under this section may be brought before the birth of the child.

(f) The district attorney may also bring an action under this section in any case in which he believes that the interests of justice will be served thereby.

7007. (a) The superior court has jurisdiction of an action brought under this part.

(b) A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this part with respect to a child who may have been conceived by that act of intercourse.

(c) The action may be brought in the county in which the child resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced.

7008. The child shall be made a party to the action. If he is a minor he shall be represented by a guardian ad litem appointed by the court. The child's mother or father may not represent the child as guardian or otherwise. The natural mother, each man presumed to be the father under Section 7004, and each man alleged to be the natural father, may be made parties and shall be given notice of the action in the manner prescribed in Section 7018 and an opportunity to be heard. The court may align the parties.

7010. (a) The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes except for actions brought pursuant to Section 270 of the Penal Code.

(b) If the judgment or order of the court is at variance with the child's birth certificate, the court shall order that a new birth certificate be issued as prescribed in Article 6 (commencing with Section 10450) of Chapter 8, of Division 9 of the Health and Safety Code.

(c) The judgment or order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment or order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(d) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, a court enforcing the obligation of support shall consider all relevant facts.

7011. The court may order reasonable fees of counsel, experts, and the child's guardian ad litem, and other costs of the action and pretrial proceedings, including blood tests, to be paid by the parties in proportions and at times determined by the court.

7012. (a) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this part or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he has furnished or is furnishing these expenses.

(b) The court may order support payments to be made to the mother, the clerk of the court, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

(c) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments apply.

7013. The court has continuing jurisdiction to modify a judgment or order made under this part.

7014. Notwithstanding any other law concerning public hearings and records, any hearing or trial held under this part may be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in any public agency or elsewhere, are subject to inspection only in exceptional cases upon an order of the court for good cause shown.

7015. Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of this part applicable to the father and child relationship apply.

7016 (a) Any promise in writing to furnish support for a child, growing out of a presumed or alleged father and child relationship, does not require consideration and is enforceable according to its terms, subject to subdivision (d) of Section 7006.

(b) In the best interest of the child or the mother, the court may, and upon the promisor's request shall, order the promise to be kept in confidence and designate a person or agency to receive and disburse on behalf of the child all amounts paid in performance of the promise.

7017. (a) If a mother relinquishes or consents to or proposes to relinquish for adoption a child who has (1) a presumed father under subdivision (a) of Section 7004 or (2) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, the father shall be given notice of the adoption proceeding and have the rights provided under Chapter 2 (commencing with Section 221), Title 2, Part 3, Division 1 of the Civil Code, unless the father's relationship to the child has been previously terminated or determined by a court not to exist or the father has voluntarily relinquished or consented to the adoption of such child.

(b) If a mother relinquishes or consents to or proposes to relinquish for adoption a child who does not have (1) a presumed father under subdivision (a) of Section 7004 or (2) a father as to whom the child is a legitimate child under prior law of this state or under the law of another jurisdiction, or if a child otherwise becomes the subject of an adoption proceeding and the alleged father, if any, has not, in writing, denied paternity, waived his right to notice, voluntarily relinquished or consented to the adoption, the agency or person to whom the child has been or is to be relinquished, or the mother or the person having custody of the child, shall file a petition in the superior court to terminate the parental rights of the father, unless the father's relationship to the child has been previously terminated or determined not to exist by a court.

(c) In an effort to identify the natural father, the court shall cause inquiry to be made by the State Department of Health, a licensed county adoption agency, or the licensed adoption agency to which

the child is to be relinquished of the mother and any other appropriate person. The inquiry shall include the following: whether the mother was married at the time of conception of the child or at any time thereafter; whether the mother was cohabiting with a man at the time of conception or birth of the child; whether the mother has received support payments or promises of support with respect to the child or in connection with her pregnancy; or whether any man has formally or informally acknowledged or declared his possible paternity of the child. The department or the licensed adoption agency shall report the findings to the court.

(d) If, after the inquiry, the natural father is identified to the satisfaction of the court, or if more than one man is identified as a possible father, each shall be given notice of the proceeding in accordance with subdivision (f). If any of them fails to appear or, if appearing, fails to claim custodial rights, his parental rights with reference to the child shall be terminated. If the natural father or a man representing himself to be the natural father, claims custodial rights, the court shall proceed to determine parentage and custodial rights in whatever order the court deems proper. If the court finds that the man representing himself to be the natural father is a presumed father under subdivision (a) of Section 7004, then the court shall issue an order providing that the father's consent shall be required for an adoption of the child. In all other cases, the court shall issue an order providing that only the mother's consent shall be required for the adoption of the child.

(e) If, after the inquiry, the court is unable to identify the natural father or any possible natural father and no person has appeared claiming to be the natural father and claiming custodial rights, the court shall enter an order terminating the unknown natural father's parental rights with reference to the child.

(f) Notice of the proceeding shall be given to every person identified as the natural father or a possible natural father in accordance with the provisions of the Code of Civil Procedure for the service of process in a civil action in this state, provided that publication or posting of the notice of the proceeding shall not be required. Proof of giving the notice shall be filed with the court before the petition is heard. However, if a person identified as the natural father or possible natural father cannot be located or his whereabouts are unknown or cannot be ascertained, the court may issue an order dispensing with notice to such person

7018. If any provision of this part or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of this part are severable

SEC. 12. Section 605 of the Evidence Code is amended to read:

605. A presumption affecting the burden of proof is a presumption established to implement some public policy other than to facilitate the determination of the particular action in which the

presumption is applied, such as the policy in favor of establishment of a parent and child relationship, the validity of marriage, the stability of titles to property, or the security of those who entrust themselves or their property to the administration of others.

SEC. 13. Section 621 of the Evidence Code is amended to read:

621. Notwithstanding any other provision of law, the issue of a wife cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage

SEC. 14. Section 661 of the Evidence Code is repealed.

SEC. 15. Section 1310 of the Evidence Code is amended to read:

1310. (a) Subject to subdivision (b), evidence of a statement by a declarant who is unavailable as a witness concerning his own birth, marriage, divorce, a parent and child relationship, relationship by blood or marriage, race, ancestry, or other similar fact of his family history is not made inadmissible by the hearsay rule, even though the declarant had no means of acquiring personal knowledge of the matter declared.

(b) Evidence of a statement is inadmissible under this section if the statement was made under circumstances such as to indicate its lack of trustworthiness.

SEC. 16. Section 1311 of the Evidence Code is amended to read:

1311. (a) Subject to subdivision (b), evidence of a statement concerning the birth, marriage, divorce, death, parent and child relationship, race, ancestry, relationship by blood or marriage, or other similar fact of the family history of a person other than the declarant is not made inadmissible by the hearsay rule if the declarant is unavailable as a witness and:

(1) The declarant was related to the other by blood or marriage; or

(2) The declarant was otherwise so intimately associated with the other's family as to be likely to have had accurate information concerning the matter declared and made the statement (i) upon information received from the other or from a person related by blood or marriage to the other or (ii) upon repute in the other's family.

(b) Evidence of a statement is inadmissible under this section if the statement was made under circumstances such as to indicate its lack of trustworthiness.

SEC. 17. Section 1312 of the Evidence Code is amended to read:

1312. Evidence of entries in family Bibles or other family books or charts, engravings on rings, family portraits, engravings on urns, crypts, or tombstones, and the like, is not made inadmissible by the hearsay rule when offered to prove the birth, marriage, divorce, death, parent and child relationship, race, ancestry, relationship by blood or marriage, or other similar fact of the family history of a member of the family by blood or marriage.

SEC. 18. Section 1313 of the Evidence Code is amended to read:

1313. Evidence of reputation among members of a family is not made inadmissible by the hearsay rule if the reputation concerns the

birth, marriage, divorce, death, parent and child relationship, race, ancestry, relationship by blood or marriage, or other similar fact of the family history of a member of the family by blood or marriage.

SEC. 19. Section 1315 of the Evidence Code is amended to read:

1315. Evidence of a statement concerning a person's birth, marriage, divorce, death, parent and child relationship, race, ancestry, relationship by blood or marriage, or other similar fact of family history which is contained in a writing made as a record of a church, religious denomination, or religious society is not made inadmissible by the hearsay rule if:

(a) The statement is contained in a writing made as a record of an act, condition, or event that would be admissible as evidence of such act, condition, or event under Section 1271; and

(b) The statement is of a kind customarily recorded in connection with the act, condition, or event recorded in the writing.

SEC. 20. Section 1316 of the Evidence Code is amended to read:

1316. Evidence of a statement concerning a person's birth, marriage, divorce, death, parent and child relationship, race, ancestry, relationship by blood or marriage, or other similar fact of family history is not made inadmissible by the hearsay rule if the statement is contained in a certificate that the maker thereof performed a marriage or other ceremony or administered a sacrament and:

(a) The maker was a clergyman, civil officer, or other person authorized to perform the acts reported in the certificate by law or by the rules, regulations, or requirements of a church, religious denomination, or religious society; and

(b) The certificate was issued by the maker at the time and place of the ceremony or sacrament or within a reasonable time thereafter.

SEC. 21. Article 5 (commencing with Section 10440) of Chapter 8 of Division 9 of the Health and Safety Code is repealed.

SEC. 22. Section 10450 of the Health and Safety Code is amended to read·

10450. Whenever the existence or nonexistence of the parent and child relationship has been determined by a court of this state or a court of another state, and upon receipt of a certified copy of the court order, application, and payment of the required fee, the State Registrar shall establish a new birth certificate for such child in the manner prescribed in Article 4 (commencing with Section 10430) of this chapter, if the original record of birth is on file in the office of the State Registrar

SEC. 22.5. Section 10450.5 is added to the Health and Safety Code, to read:

10450.5. All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon order of a court of record.

SEC. 23. Section 10456 of the Health and Safety Code is amended to read:

10456. Upon receipt of the application and payment of the

required fee, and in the absence of conflicting information on the originally registered certificate of live birth, the State Registrar shall review the application for acceptance for filing, and if accepted shall establish a new birth certificate for such child in the manner prescribed in Article 4 (commencing with Section 10430) of this chapter, if the original record of birth is on file in the office of the State Registrar.

SEC. 23.5. Section 10456.5 is added to the Health and Safety Code, to read:

10456 5 All records and information specified in this article, other than the newly issued birth certificate, shall be available only upon order of a court of record.

SEC. 24. Section 255 of the Probate Code is repealed.

SEC. 25 Section 255 is added to the Probate Code, to read·

255. (a) The rights of succession by a child, as set forth in this division, are dependent upon the existence, prior to the death of the decedent, of a parent and child relationship between such child and the decedent.

(b) The rights of succession by issue through a deceased child of a decedent, as set forth in this division, are dependent upon the existence, prior to the death of the deceased child, of a parent and child relationship between such issue and a deceased child and upon the existence prior to the death of the decedent or the deceased child of a parent and child relationship between such deceased child and the decedent.

(c) The rights of succession to a child's estate by a parent and all persons who would take an intestate share of the decedent's estate through such parent, as set forth in this division, are dependent upon the existence, prior to the death of the decedent, of a parent and child relationship between the parent and the decedent child

(d) For purposes of this division, a parent and child relationship exists where such relationship is (1) presumed and not rebutted pursuant to, or (2) established pursuant to, Part 7 (commencing with Section 7000) of Division 4 of the Civil Code

SEC. 26. Section 256 of the Probate Code is repealed.

SEC. 27. Section 1403 of the Probate Code is amended to read.

1403. Either parent of a child living or likely to be born, may appoint a guardian of the person and estate, or person or estate of such child, by will or by deed, to take effect upon the death of the parent appointing, with the written consent of the other parent if the other parent's consent would be required for an adoption of such child, unless the other parent is dead or incapable of consent.

SEC. 28. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the additional net costs, if any, imposed on local government by this act are insignificant in nature and will not cause any financial burden on local government.

CHAPTER 1245

An act to amend Sections 740.4 and 740.5 of the Streets and Highways Code, relating to highways, and making an appropriation therefor.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 740.4 of the Streets and Highways Code is amended to read:

740.4. The department shall transmit a copy of such map insofar as it relates to the land within a county to the planning commission of the county.

The planning commission of such county shall thereafter prepare a precise plan showing such planned right-of-way in conformity with Section 65600 of the Government Code, and the board of supervisors shall thereafter adopt such precise plan in the manner provided in Article 11 (commencing with Section 65600), Chapter 3, Title 7 of the Government Code.

Thereafter, the planning commission shall also notify the department of any application for a building permit for a building costing five thousand dollars ($5,000) or more in sufficient time to give the department an opportunity to purchase the right-of-way from such applicant. Upon adoption of a resolution by the board of supervisors, the notice to the department may be given by any other officer, board, commission, or department designated for that purpose by the resolution.

SEC. 2. Section 740.5 of the Streets and Highways Code is amended to read:

740.5. The department shall transmit a copy of such map, insofar as it relates to the land within a city, to the planning commission of the city or, if the city has not created a planning commission, to the governing body of the city.

The planning commission of such city or, if the city has not created a planning commission, the governing body of such city acting as a planning commission, shall thereafter notify the department of any application for a building permit for a building costing five thousand dollars ($5,000) or more in sufficient time to give the department an opportunity to purchase the right-of-way from such applicant.

The notices required to be given by the planning commission, or by the governing body acting as a planning commission, may be given by any other officer, board, commission, or department designated for that purpose by resolution of the governing body.

SEC. 3. The sum of fifteen thousand dollars ($15,000) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section

2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act. Claims for direct and indirect costs pursuant to this section shall be filed as prescribed by the State Controller.

CHAPTER 1246

An act to amend Sections 6252, 6254, 6257, and 6259 of, to add Sections 6261, 9131, 9132, 12022 and 12032, and to add Article 3.5 (commencing with Section 9070) to Chapter 1.5 of Part 1 of Division 2 of Title 2 of, the Government Code, relating to public records.

[Approved by Governor October 1, 1975. Filed with Secretary of State October 1, 1975.]

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

SECTION 1. Article 3.5 (commencing with Section 9070) is added to Chapter 1.5 of Part 1 of Division 2 of Title 2 of the Government Code, to read:

Article 3.5. Legislative Open Records Act

9070. The Legislature finds and declares that access to information concerning the conduct of the people's business by the Legislature is a fundamental and necessary right of every citizen in this state.

9071. This article shall be known and may be cited as the Legislative Open Records Act.

9072. As used in this article:

(a) "Person" includes any natural person, corporation, partnership, firm, or association.

(b) "Legislature" includes any Member of the Legislature, any legislative officer, any standing, joint, or select committee or subcommittee of the Senate and Assembly, and any other agency or employee of the Legislature.

(c) "Legislative records" means any writing prepared on or after December 2, 1974 which contains information relating to the conduct of the public's business prepared, owned, used, or retained by the Legislature.

(d) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

9073. Legislative records are open to inspection at all times

during the normal office hours of the Legislature and any person has a right to inspect any legislative record, except as hereafter provided. Any person shall be furnished reasonable opportunities for inspection of legislative records and reasonable facilities for making memoranda or abstracts therefrom. Any person may receive a copy of a legislative record if such record is of a nature permitting such copying. The Legislature may establish fees reasonably calculated to reimburse it for its actual cost in making such copies available, provided such fee shall not exceed ten cents ($0.10) per page.

9074. All requests to inspect any legislative record shall be made to the appropriate Rules Committee of each house of the Legislature or the Joint Rules Committee. Such committees shall be considered to have custody of all legislative records and shall be responsible for making all legislative records available for inspection. Such committees shall promptly inform any person whether any legislative record shall be made available for inspection Such legislative records shall be made available for inspection promptly and without unnecessary delay. Whenever such committee withholds any legislative record from inspection, within four working days of the request to inspect such record, the committee shall justify in writing the withholding of such record by demonstrating that the record in question is exempt under the express provisions of this article or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record, provided that when the Legislature is not in session, such committee shall furnish such written justification within 10 working days of the request to inspect such record. The Rules Committee of each house and the Joint Rules Committee shall adopt written guidelines stating the procedures to be followed when making legislative records available for inspection.

9075. Nothing in this article shall be construed to invalidate or affect the operation of Sections 10207, 10208, 10525, and 10526 of this code, or Temporary Joint Rule 37 of the Senate and Assembly in effect on the effective date of this article, or to require the disclosure of records that are:

(a) Preliminary drafts, notes, or legislative memoranda.

(b) Records pertaining to pending litigation to which the Legislature is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy provided that the Senate Committee on Rules, the Assembly Rules Committee, or the Joint Rules Committee shall determine whether disclosure of such records constitutes an unwarranted invasion of personal privacy.

(d) Records pertaining to the names and phone numbers of

senders and recipients of telephone and telegraph communications, provided that records of the total charges for any such communication shall be open for inspection.

(e) Records pertaining to the name and location of recipients of automotive fuel or lubricants expenditures, provided that records of the total charges for any such expenditures shall be open for inspection.

(f) In the custody of or maintained by the Legislative Counsel provided legislative records shall not be transferred to the custody of the Legislative Counsel to evade the disclosure provisions of this chapter.

(g) In the custody of or maintained by the majority and minority caucuses and majority and minority consultants of each house of the Legislature, provided legislative records shall not be transferred to the custody of the majority and minority caucuses and majority and minority consultants of each house of the Legislature to evade the disclosure provisions of this chapter.

(h) Correspondence of and to individual Members of the Legislature and their staff.

(i) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(j) Communications from private citizens to the Legislature.

(k) Records of complaints to or investigations conducted by, or records of security procedures of, the Legislature

9076. Any person may institute proceedings for injunctive or declarative relief in any court of competent jurisdiction to enforce his right to inspect any legislative record or class of legislative records under this article. The times for responsive pleadings and for hearings in such proceedings shall be set by the judge of the court with the object of securing a decision as to such matters at the earliest possible time.

9077. Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain legislative records are being improperly withheld from a member of the public, the court shall order the committee charged with withholding the records to disclose the legislative record or show cause why the committee should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

If the court finds that the committee's decision to refuse disclosure is not justified under the provisions of Section 9074 or 9075, he shall order the committee to make the record available for inspection. If the judge determines that the committee was justified in refusing to make the record available for inspection, he shall return the item to the committee without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to

obey the order of the court shall be cited to show cause why he is not in contempt of court.

9078. The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to Section 9077.

9079. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency

SEC. 2. Section 6252 of the Government Code is amended to read:

6252. As used in this chapter:

(a) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(b) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; or other local public agency.

(c) "Person" includes any natural person, corporation, partnership, firm, or association.

(d) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of or maintained by the Governor's office means any writing prepared on or after January 6, 1975.

(e) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

SEC. 3. Section 6254 of the Government Code is amended to read:

6254 Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure;

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled;

(c) Personnel, medical, or similar files, the disclosure of which

would constitute an unwarranted invasion of personal privacy;

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies;

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1);

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1); or

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person;

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination;

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision;

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information;

(j) Library and museum materials made or acquired and presented solely for reference or exhibition purposes;

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege;

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter;

(m) In the custody or maintained by the Legislative Counsel;

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish his personal qualification for the license, certificate, or permit applied for; and

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

SEC. 3.5. Section 6261 is added to the Government Code, to read·

6261. Notwithstanding Section 6252, an itemized statement of the total expenditures and disbursement of any agency provided for in Article VI of the California Constitution shall be open for inspection.

SEC. 4. Section 9131 is added to the Government Code, to read:

9131. For the period ending on November 30 of each year, the Assembly Rules Committee, Senate Committee on Rules, and the Joint Rules Committee shall annually issue a report to the public on the expenditures made from the contingent fund subject to their direction and control. Such report shall include, but not be limited to, a listing of total expenditures for each Member and committee of the Legislature in the following categories:

(a) Out-of-state travel and living expense reimbursement and in-state travel and living expense reimbursement.

(b) Automotive expenses.

(c) Rent.

(d) Telephone.

(e) Postage.

(f) Printing.

(g) Office supplies.

(h) Newsletters.

(i) Per diem for attendance at legislative sessions.

SEC. 5. Section 9132 is added to the Government Code, to read:

9132. The Assembly and Senate, and the Joint Rules Committee, shall annually provide to the Director of Finance an itemized statement of proposed expenditures from the Assembly Contingent Fund, the Senate Contingent Fund, and the Contingent Funds of the Assembly and Senate for inclusion in the Governor's Budget for the ensuing fiscal year.

SEC. 6. Section 12022 is added to the Government Code, to read:

12022. The Governor shall annually provide to the Director of Finance an itemized statement of proposed expenditures, including special contingent expenses for support of the Governor, the Governor's office, and the Governor's residences for inclusion in the Governor's Budget for the ensuing fiscal year.

SEC. 7. Section 12032 is added to the Government Code, to read:

12032 The Governor shall annually issue a report to the public on the expenditures for support of his office on December 31. Such report shall include, but not be limited to, a listing of total

expenditures for the Governor in the following categories:

(a) Travel and living expense reimbursement.

(b) Automotive and charter or lease airplane expenses.

(c) Rent.

(d) Telephone.

(e) Postage.

(f) Printing.

(g) Office supplies.

SEC. 8. Section 6257 of the Government Code is amended to read:

6257. A request for a copy of an identifiable public record or information produced therefrom, or a certified copy of such record, shall be accompanied by payment of a reasonable fee or deposit established by the state or local agency, provided such fee shall not exceed ten cents ($0.10) per page or the prescribed statutory fee, where applicable.

SEC. 9. Section 6259 of the Government Code is amended to read:

6259. Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and such oral argument and additional evidence as the court may allow.

If the court finds that the public official's decision to refuse disclosure is not justified under the provisions of Section 6254 or 6255, he shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure. Any person who fails to obey the order of the court shall be cited to show cause why he is not in contempt of court.The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. Such costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

CHAPTER 1247

An act to amend Sections 23331 and 23341 of, and to add Section 23344 to, the Government Code, relating to county formation review commissions, and making an appropriation therefor.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 23331 of the Government Code is amended to read:

23331. Upon receipt of notice pursuant to Section 23330, the Governor shall create a County Formation Review Commission to review the proposed county creation, and appoint five persons to be members of the commission Of the five persons appointed to the commission, two shall reside within the territory of the proposed county, two shall reside within the territory remaining in the affected county or counties should the proposed county be created; and one shall not be a resident of either the territory of the proposed county or the affected county or counties The Governor shall appoint the members of the commission within 120 days following his receipt of the petition certification pursuant to Section 23330.

SEC. 2. Section 23341 of the Government Code is amended to read:

23341. The commission shall adopt a resolution making its determination and transmit its report in writing to the board of supervisors of each affected county, within 180 days of the date of notice and acceptance by the last appointed member and shall be signed and attested to by all the members of the commission. The commission may be granted up to 180 additional days to comply with the provisions of this section, upon a majority vote of the commission and the approval of the Governor.

SEC. 3. Section 23344 is added to the Government Code, to read:

23344 (a) The commission may borrow such moneys as may be necessary to meet its expenses until the costs of the commission have been determined pursuant to the provisions of Section 23343.

(b) As an alternative to the procedure authorized by subdivision (a), the commission may request the Controller and the Controller shall loan from the County Formation Revolving Fund such moneys as the commission shall determine necessary to meet its expenses until the costs have been determined pursuant to the provisions of Section 23343. Such loan shall be at an interest rate equal to that of the Pooled Money Investment Fund.

(c) Loans made pursuant to this section shall not exceed a total of one hundred thousand dollars ($100,000) per commission, and shall be repaid within one year of the date on which the issue of county formation was voted on by the people.

(d) The sum of one hundred thousand dollars ($100,000) shall be transferred from the General Fund to the County Formation Revolving Fund which is hereby created and appropriated, without regard to fiscal year, for purposes of this section. Any repayments on loans, including interest, received by the State Controller shall be deposited in the County Formation Revolving Fund.

CHAPTER 1248

An act to amend Sections 18008 and 18211 of, and to add Section 18005.5 to, the Health and Safety Code, and to amend Sections 11703, 11704, and 11713 of, and to add Sections 396, 11704.5, and 11705.2 to, the Vehicle Code, relating to mobilehomes.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 18005.5 is added to the Health and Safety Code, to read:

18005.5 "Dwelling unit" is one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation.

SEC. 2. Section 18008 of the Health and Safety Code is amended to read:

18008. "Mobilehome", for the purposes of this chapter, is a vehicle, other than a motor vehicle, designed and equipped to contain one or more dwelling units to be used without a permanent foundation and which is in excess of 8 feet in width or in excess of 40 feet in length.

SEC. 3. Section 18211 of the Health and Safety Code is amended to read:

18211. "Mobilehome", for the purposes of this chapter, is a vehicle, other than a motor vehicle, designed and equipped to contain one or more dwelling units, as defined in Section 18005.5, to be used without a permanent foundation and which is in excess of 8 feet in width or in excess of 40 feet in length.

SEC. 4. Section 396 is added to the Vehicle Code, to read:

396. "Mobilehome" is a trailer coach designed and equipped to contain one or more dwelling units, as defined in Section 18005.5 of the Health and Safety Code, to be used without a permanent foundation and which is in excess of 8 feet in width or in excess of 40 feet in length.

SEC. 4.2. Section 11703 of the Vehicle Code is amended to read:

11703 The department may refuse to issue a license to a manufacturer, manufacturer branch, distributor, distributor branch, transporter, or dealer, when it determines that:

(a) The applicant was previously the holder of a license issued under this chapter, which license was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of suspension have not been fulfilled.

(b) The applicant was previously a limited or general partner, stockholder, director, or officer of a partnership or corporation whose license issued under the authority of this chapter was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled.

(c) If the applicant is a partnership or corporation, that one or more of the limited or general partners, stockholders, directors or officers was previously the holder or a limited or general partner, stockholder, director or officer of a partnership or corporation whose license issued under the authority of this chapter was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled, or that by reason of the facts and circumstances touching the organization, control, and management of the partnership or corporation business the policy of such business will be directed, controlled, or managed by individuals who, by reason of their conviction of violations of the provisions of this code, would be ineligible for a license and that by licensing such corporation or partnership the purposes of this code would likely be defeated.

(d) The applicant, or one of the limited or general partners, if the applicant be a partnership, or one or more of the officers or directors of the corporation, if the corporation be the applicant, or one or more of the stockholders if the policy of such business will be directed, controlled, or managed by such stockholder or stockholders, has ever been convicted of a felony or a crime involving moral turpitude. A conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(e) The information contained in the application is incorrect.

(f) Upon investigation, the business history required by Section 11704 contains incomplete or incorrect information, or reflects substantial business irregularities.

(g) The decision of the department to cancel, suspend, or revoke a license has been entered, and this applicant was the licensee, or a copartner, officer, director, or stockholder of such licensee.

SEC. 4.5. Section 11704 of the Vehicle Code is amended to read:

11704. The department shall prescribe and provide forms to be used for application for licenses to be issued under the terms and provisions of this article and require of such applicants, where appropriate, as a condition precedent to issuance of such license, such information, including, but not limited to, fingerprints and personal history statements, touching on and concerning the applicant's character, honesty, integrity and reputation as it may consider necessary, and the applicant's personal business history with specific reference to previous bankruptcies; provided, however, that every application for a dealer's license shall contain, in addition to

such information as the department may require, a statement of the following facts:

(a) The name and residence address of the applicant and the trade name, if any, under which he intends to conduct his business; and if the applicant be a copartnership, the name and residence address of each member thereof, whether a limited or general partner, and the name under which the partnership business is to be conducted; and if the applicant be a corporation, the name of the corporation and the name and address of each of its principal officers and directors.

(b) A complete description, including the city, town or village with the street and number, if any, of the established place of business and such other and additional place or places of business as shall be operated and maintained by the applicant in conjunction with the established place of business.

(c) If the application be for a dealer's license, the name or names of the new motor vehicle or vehicles that the applicant has been enfranchised to sell or exchange and the name or names and address of the manufacturer or distributor who has enfranchised the applicant.

(d) If the application be for a manufacturer's or manufacturer's branch license, the names and addresses of all distributors and representatives acting for the applicant in this state and all dealers franchised by said applicant in this state and business addresses of such dealers. Thereafter, all manufacturers or manufacturer's branches shall inform the department within 30 days of any change in the list of distributors, representatives or dealers.

(e) If the application be for a distributor's or distributor's branch license, the name of the manufacturer for whom the distributor will act, the names and business addresses of all representatives acting for the applicant in this state and the names and business addresses of all dealers in this state franchised by such distributor. Thereafter, all distributors shall inform the department within 30 days of any change in the list of representatives and dealers.

(f) Upon receipt of an application accompanied with the appropriate fee, the department shall, within 120 days, make a thorough investigation of the information contained in the application.

SEC. 5. Section 11704.5 is added to the Vehicle Code, to read:

11704.5. Commencing July 1, 1976, every applicant for a mobilehome dealer's or salesperson's license shall pass a written examination, prepared and administered by the department. Such examination shall include, but not be limited to, subjects relating to mobilehomes, laws relating to contracts for the sale of vehicles, laws covering truth in lending, and departmental and warranty requirements.

SEC. 6. Section 11705.2 is added to the Vehicle Code, to read:

11705.2. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter,

manufacturer, manufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto, or has violated any of the provisions of Part 2 (commencing with Section 18000) of Division 13 of, or Section 18613 of, the Health and Safety Code or any rules and regulations issued pursuant thereto.

(b) Every hearing as provided for in this section shall be pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 7. Section 11713 of the Vehicle Code is amended to read:

11713. It shall be unlawful and a violation of this code for the holder of any license issued under this article:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate or cause to be so disseminated any such statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.

(b) To advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of such dealer or available to said dealer from the manufacturer or distributor of such vehicle at the time of the advertisement or offer; provided however, that this subdivision does not apply to advertising or offering for sale or exchange any used mobilehome, as defined by Section 18008 of the Health and Safety Code, or used commercial coach, as defined by Section 18012 of the Health and Safety Code, other than a recreational vehicle, as defined by Section 18010.5 of the Health and Safety Code, where such advertising or offering for sale is not contrary to any terms of a contract between the seller of the mobilehome or commercial coach and the owner of the mobilehome park, and which mobilehome or commercial coach is either in place on a lot rented or leased for human habitation within an established mobilehome park, as defined in Section 18214 of the Health and Safety Code, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and such use would be authorized, for a total and uninterrupted period of at least one year.

(c) To fail within 48 hours in writing to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) To advertise or represent a vehicle as a new vehicle if such vehicle falls within the purview of Section 665 of this code.

(e) To engage in the business for which licensee is licensed without having in force and effect a good and sufficient bond with corporate surety as hereinbefore provided.

(f) For any licensed dealer to engage in the business for which

such dealer is licensed without at all times maintaining an established place of business as required by this code.

(g) To include as an added cost to the selling price of a vehicle, an amount for licensing or transfer of title of the vehicle, which amount is not due to the state unless, prior to the sale, such amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of such fees.

(h) To employ any person as a salesman who has not been licensed pursuant to Article 2 (commencing with Section 11800) of this chapter, and whose license is not displayed on the premises of the dealer as provided in Section 11804.

(i) To deliver, following sale, a vehicle for operation on California highways, if such vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000) of this code.

(j) To use or permit the use of the special plates assigned to him for any purpose other than permitted by Section 11715.

(k) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on his behalf or at his place of business, that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance such downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle.

(*l*) To participate in the sale of a motor vehicle reported to the Department of Motor Vehicles under the provisions of Section 5900 of this code without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(m) To permit the use of his dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of vehicles required to be registered under this code, or to permit the use of his dealer's license, supplies, or books to operate a branch location to be used by any other person, if, in either situation, the licensee has no financial or equitable interest or investment in the vehicles sold by, or the business of, or branch location used by, such person, or has no such interest or investment other than commissions, compensations, fees, or any other thing of value received for the use of the dealer's license, supplies, or books to engage in the sale of vehicles.

(n) To violate any of the provisions of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12 of this code.

(o) To fail to deliver or honor the terms and conditions of any warranty as set forth in Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(p) To violate any of the terms or provisions of Chapter 6 (commencing with Section 11950) of Division 5.

(q) Has violated any of the provisions of Part 2 (commencing with Section 18000) of Division 13 of, or Section 18613 of, the Health and Safety Code or any rules and regulations issued pursuant thereto.

CHAPTER 1249

An act to amend Section 13162 of the Education Code, relating to public schools.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 13162 of the Education Code is amended to read:

13162. Nothing in this chapter shall be construed as preventing school districts from hiring, employing, or otherwise using teacher aides, instructional aides, or teacher-assistants under the terms of existing law and financial support formulas. The commission may study the various roles of such paraprofessionals and routinely report its findings.

Public and private colleges, universities, and community colleges may develop cooperative programs with school districts or school governing boards to place undergraduate and graduate students in public and private classrooms as teacher aides or assistants. Such assignment may be, at the discretion of the institution, the basis for securing college credit.

A certificate to serve as a temporary teacher-assistant shall be issued, by the county superintendent of schools of the county in which service is to be rendered, to the holder of a recommendation from an accredited college, university, or community college. The certificate shall authorize the holder to serve as a teacher-assistant. No such certificate shall be granted for a period exceeding two years.

The teacher-assistant certificate shall not be used in lieu of a teaching credential. The holder of such a certificate shall work under the immediate supervision of a credentialed classroom teacher to whom the teacher-assistant is assigned, who shall be present in the classroom while the teacher-assistant is performing his classroom duties or who shall be available at all times to provide guidance and direction to the teacher-assistant.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because the duties, obligations or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1250

An act to amend Sections 39000, 39001, 39002, 39003, 39004, 39005, 39006, 39007, 39008, 39009, and 39010 of, to amend the heading of Division 16.7 (commencing with Section 39000) of, and to add Section 39012 to, the Vehicle Code, relating to bicycles.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. The heading of Division 16.7 (commencing with Section 39000) of the Vehicle Code is amended to read:

DIVISION 16.7. REGISTRATION AND LICENSING OF BICYCLES

SEC. 2. Section 39000 of the Vehicle Code is amended to read:

39000. "Bicycle", for the purposes of this division, means any device upon which a person may ride, which is propelled by human power through a system of belts, chains, or gears having either two or three wheels (one of which is at least 20 inches in diameter, in tandem or tricycle arrangement) or having a frame size of at least 14 inches.

SEC. 3. Section 39001 of the Vehicle Code is amended to read:

39001. The department shall procure and distribute bicycle license indicia and registration forms to all cities and counties which have or adopt a bicycle licensing ordinance or resolution. Cities and counties shall issue the indicia and registration form distributed by the department to owners of any new bicycle which is first sold on or after September 20, 1974. The department shall charge and collect a fee, not to exceed the cost of procuring and distributing the license indicia and registration form, for each bicycle license indicia and registration form issued All fees collected pursuant to this section shall be deposited in the State Bicycle License and Registration Fund which is hereby created. There is hereby continuously appropriated from such fund such amounts, as determined by the Director of Finance, as are needed by the department to defray costs to procure and distribute the bicycle license indicia and registration forms.

The director shall design the bicycle license indicia and registration form and shall establish procedures for the distribution of such indicia and registration form to cities and counties. Such indicia shall be adhesive, durable, flexible, and of a size to permit it to be affixed to the front of the seat tube of the bicycle frame. Each indicia shall bear a unique license number and shall be permanently assigned to a bicycle. Each registration form shall comply with Section 39005.

Bicycle licenses shall be renewed uniformly throughout the state

on January 1 of the third year following the year of registration, to begin January 1, 1979. Renewal of a bicycle shall be indicated by a supplementary adhesive device affixed parallel to and above or below the indicia with expiration date shown.

SEC. 4. Section 39002 of the Vehicle Code is amended to read:

39002 (a) If a city or county has or adopts a bicycle licensing ordinance or resolution, no resident shall operate any bicycle, first sold as a new bicycle in California on or after September 20, 1974, on any street, road, highway, or other public property within the jurisdiction of such city or county, unless such bicycle is licensed in accordance with this division.

(b) Any bicycle not subject to the provisions of this division may be additionally regulated or licensed pursuant to local ordinance or may be licensed upon request of the owner.

(c) It is unlawful for any person to tamper with, destroy, mutilate, or alter any license indicia or registration form, or to remove, alter, or mutilate the serial number, or the identifying marks of a licensing agency's identifying symbol, on any bicycle frame licensed under the provisions of this division.

SEC 5. Section 39003 of the Vehicle Code is amended to read:

39003. If a city or county has or adopts a bicycle licensing ordinance or resolution, indicia and a copy of the registration form obtained from the department shall be issued to the owner by the city or county or other licensing agency designated by it.

SEC. 6. Section 39004 of the Vehicle Code is amended to read:

39004. Each licensing agency, by ordinance or resolution, may adopt rules and regulations for the collection of license fees. Revenues from license fees shall be retained by the licensing city or county and shall be used for the support of such bicycle ordinance or resolution, and may be used to reimburse retailers for services rendered. In addition, fees collected shall be used to improve bicycle safety programs and establish bicycle facilities, including bicycle paths and lanes, within the limits of the jurisdiction.

The fees required to be paid pursuant to the provisions of this division are:

(a) For each new bicycle license and registration certificate, the sum shall not exceed two dollars ($2) per year or any portion thereof

(b) For each transfer of registration certificate, the sum shall not exceed one dollar ($1).

(c) For each replacement of a bicycle license or registration certificate, the sum shall not exceed one dollar ($1).

(d) For each bicycle license renewal, the sum shall not exceed one dollar ($1) per year.

SEC. 7 Section 39005 of the Vehicle Code is amended to read:

39005. Cities and counties having a bicycle licensing ordinance or resolution shall maintain records of each bicycle registered. Such records shall include, but not be limited to, the license number, the serial number of the bicycle, the make and type, of the bicycle, and the name and address of the licensee.

Records shall be maintained by the licensing agency during the period of validity of the license or until notification that the bicycle is no longer to be operated.

SEC. 8. Section 39006 of the Vehicle Code is amended to read:

39006. (a) Each bicycle retailer and each bicycle dealer shall supply to each purchaser a preregistration form provided by the licensing agency and shall include, on the sales check or receipt given to the purchaser, a record of the following information: name of retailer, address of retailer, year and make of the bicycle, serial number of the bicycle if delivered to the purchaser in an assembled state, general description of the bicycle, name of purchaser, and address of purchaser. A copy of the preregistration form shall be filled out and forwarded by the purchaser to the appropriate licensing agency within 10 days from the date of sale.

(b) For the purposes of this division, a bicycle dealer is any person who sells, gives away, buys, or takes in trade for the purpose of resale, more than five bicycles in any one calendar year, whether or not such bicycles are owned by such person. "Bicycle dealer" also includes agents or employees of such person.

SEC. 9. Section 39007 of the Vehicle Code is amended to read:

39007. After December 31, 1976, no bicycle retailer shall sell any new bicycle in this state unless such bicycle has legibly and permanently stamped or cast on its frame a serial number, no less than one-eighth inch in size, and unique to the particular bicycle of each manufacturer. The serial number only shall be stamped or cast in the head of the frame, either side of the seat tube, the toeplate, or the bottom sprocket (crank) housing.

SEC. 10. Section 39008 of the Vehicle Code is amended to read:

39008. (a) Whenever any person sells or otherwise disposes of a bicycle, he shall endorse upon the registration certificate previously issued for such bicycle a written transfer of same, setting forth the name, address, telephone number of the transferee, date of transfer, and signature of the transferrer, and shall deliver the registration certificate, so endorsed, to the licensing agency within 10 days.

(b) Any person who purchases or otherwise acquires possession of a bicycle shall, within 10 days of taking possession, apply for the transfer of license to his own name Cities and counties may establish rules and regulations to govern and enforce the provisions of this section.

SEC. 11. Section 39009 of the Vehicle Code is amended to read:

39009. (a) Whenever the owner of a bicycle licensed pursuant to an ordinance or resolution of a city or county changes his address, he shall within 10 days notify the appropriate licensing agency of the old and new address.

(b) In the event that any bicycle license indicia or registration form issued pursuant to the provisions of this division is lost, stolen, or mutilated, the licensee of such bicycle shall immediately notify the licensing agency, and, within 10 days after such notification, shall apply to the licensing agency for a duplicate license indicia or

registration form. Thereupon, the licensing agency shall issue to such licensee a replacement indicia or registration form upon payment to the licensing agency of the appropriate fee.

SEC. 12. Section 39010 of the Vehicle Code is amended to read:

39010. (a) Any city or county which has a bicycle licensing ordinance or resolution in effect on September 20, 1974, shall only continue under such ordinance or resolution for a period not exceeding one year from September 20, 1974.

(b) Bicycle licenses which have been issued pursuant to an ordinance or resolution of a city or county which is in effect on September 20, 1974 shall remain valid until their assigned expiration dates, but in no case any later than July 1, 1979.

SEC. 13. Section 39012 is added to the Vehicle Code, to read:

39012. The licensing agency shall have the right to impound and retain possession of any bicycle in violation of the provisions of this division, and may retain possession of such bicycle until the provisions of this division are complied with. In addition, a fine may be imposed for any violation of this division pursuant to Section 39011.

SEC. 14. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligation, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1251

An act to amend Section 1208 of the Penal Code as amended by Sections 1 and 2 of Chapter 53 of the Statutes of 1975, relating to work furlough.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 1208 of the Penal Code, as amended by Section 1 of Chapter 53 of the Statutes of 1975, is amended to read:

1208. (a) The provisions of this section, insofar as they relate to employment, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of employment conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to employment, in that county is feasible. The provisions of this section, insofar as they relate to education, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of education conditions, the state of the county jail facilities, and

other pertinent circumstances, that the operation of this section, insofar as it relates to education, in that county is feasible. In any such ordinance the board shall prescribe whether the sheriff, the probation officer, or the superintendent of a county industrial farm or industrial road camp in the county shall perform the functions of the work furlough administrator. The board may, in such ordinance, provide for the performance of any or all functions of the work furlough administrator by any one or more of such persons, acting separately or jointly as to any of such functions; and may, by a subsequent ordinance, revise such provisions within the authorization of this section. The board of supervisors may also terminate the operativeness of this section, either with respect to employment or education in the county if it finds by ordinance that, because of changed circumstances, the operation of this section, either with respect to employment or education in that county is no longer feasible.

Notwithstanding any other provision of law, the board of supervisors may by ordinance designate a facility for confinement of prisoners classified for the work furlough program and designate the work furlough administrator as the custodian of the facility. The sheriff may transfer custody of such prisoners to the work furlough administrator to be confined in such facility for the period during which they are in the work furlough program.

(b) When a person is convicted of a misdemeanor and sentenced to the county jail, or is imprisoned therein for nonpayment of a fine, for contempt, or as a condition of probation for any criminal offense, or committed under the terms of Section 6404 or 6406 of the Welfare and Institutions Code as a habit-forming drug addict, the work furlough administrator may, if he concludes that such person is a fit subject therefor, direct that such person be permitted to continue in his regular employment, if that is compatible with the requirements of subdivision (d), or may authorize the person to secure employment for himself, unless the court at the time of sentencing or committing has ordered that such person not be granted work furloughs. The work furlough administrator may, if he concludes that such person is a fit subject therefor, direct that such person be permitted to continue in his regular educational program, if that is compatible with the requirements of subdivision (d), or may authorize the person to secure education for himself, unless the court at the time of sentencing has ordered that such person not be granted work furloughs.

(c) If the work furlough administrator so directs that the prisoner be permitted to continue in his regular employment or educational program, the administrator shall arrange for a continuation of such employment or education, so far as possible without interruption. If the prisoner does not have regular employment or a regular educational program, and the administrator has authorized the prisoner to secure employment or education for himself, the prisoner may do so, and the administrator may assist him in doing so. Any

employment or education so secured must be suitable for the prisoner. Such employment or educational program, if such educational program includes earnings by the prisoner, must be at a wage at least as high as the prevailing wage for similar work in the area where the work is performed and in accordance with the prevailing working conditions in such area. In no event may any such employment or educational program involving earnings by the prisoner be permitted where there is a labor dispute in the establishment in which the prisoner is, or is to be, employed or educated.

(d) Whenever the prisoner is not employed or being educated and between the hours or periods of employment or education, he shall be confined in the facility designated by the board of supervisors for work furlough confinement unless the work furlough administrator directs otherwise. If the prisoner is injured during a period of employment or education, the work furlough administrator shall have the authority to release him from the facility for continued medical treatment by private physicians or at medical facilities at the expense of the employer, workman's compensation insurer, or the prisoner. Such release shall not be construed as assumption of liability by the county or work furlough administrator for medical treatment obtained.

The work furlough administrator may release any prisoner classified for the work furlough program for a period not to exceed 72 hours for medical, dental, or psychiatric care, or for family emergencies or pressing business which would result in severe hardship if the release were not granted, or to attend such activities as the administrator deems may effectively promote the prisoner's successful return to the community, including, but not limited to, an attempt to secure housing, employment, entry into educational programs, or participation in community programs.

(e) The earnings of the prisoner may be collected by the work furlough administrator, and it shall be the duty of the prisoner's employer to transmit such wages to the administrator at the latter's request. Earnings levied upon pursuant to writ of attachment or execution or in other lawful manner shall not be transmitted to the administrator. If the administrator has requested transmittal of earnings prior to levy, such request shall have priority. In a case in which the functions of the administrator are performed by a sheriff, and such sheriff receives a writ of attachment or execution for the earnings of a prisoner subject to this section but has not yet requested transmittal of the prisoner's earnings pursuant to this section, he shall first levy on the earnings pursuant to the writ. When an employer or educator transmits such earnings to the administrator pursuant to this subdivision he shall have no liability to the prisoner for such earnings. From such earnings the administrator shall pay the prisoner's board and personal expenses, both inside and outside the jail, and shall deduct so much of the costs of administration of this section as is allocable to such prisoner, and, in an amount determined

by the administrator, shall pay the support of the prisoner's dependents, if any. If sufficient funds are available after making the foregoing payments, the administrator may, with the consent of the prisoner, pay, in whole or in part, the preexisting debts of the prisoner. Any balance shall be retained until the prisoner's discharge and thereupon shall be paid to him.

(f) The prisoner shall be eligible for time credits pursuant to Sections 4018, 4019, and 4019.2.

(g) In the event the prisoner violates the conditions laid down for his conduct, custody, education, or employment, the work furlough administrator may order the balance of the prisoner's sentence to be spent in actual confinement.

(h) Willful failure of the prisoner to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement pursuant to this section is punishable as provided in Section 4532 of the Penal Code.

(i) As used in this section, "education" includes vocational and educational training and counseling; and psychological, drug abuse, alcoholic and other rehabilitative counseling; "educator" includes a person or institution providing such training or counseling.

(j) This section shall be known and may be cited as the "Cobey Work Furlough Law."

SEC. 2. Section 1208 of the Penal Code, as amended by Section 2 of Chapter 53 of the Statutes of 1975, is amended to read:

1208. (a) The provisions of this section, insofar as they relate to employment, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of employment conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to employment, in that county is feasible. The provisions of this section, insofar as they relate to education, shall be operative in any county in which the board of supervisors by ordinance finds, on the basis of education conditions, the state of the county jail facilities, and other pertinent circumstances, that the operation of this section, insofar as it relates to education, in that county is feasible. In any such ordinance the board shall prescribe whether the sheriff, the probation officer, or the superintendent of a county industrial farm or industrial road camp in the county shall perform the functions of the work furlough administrator. The board may, in such ordinance, provide for the performance of any or all functions of the work furlough administrator by any one or more of such persons, acting separately or jointly as to any of such functions; and may, by a subsequent ordinance, revise such provisions within the authorization of this section. The board of supervisors may also terminate the operativeness of this section, either with respect to employment or education in the county if it finds by ordinance that because of changed circumstances, the operation of this section, either with respect to employment or education in that county is no longer feasible.

Notwithstanding any other provision of law, the board of supervisors may by ordinance designate a facility for confinement of prisoners classified for the work furlough program and designate the work furlough administrator as the custodian of the facility. The sheriff may transfer custody of such prisoners to the work furlough administrator to be confined in such facility for the period during which they are in the work furlough program.

(b) When a person is convicted of a misdemeanor and sentenced to the county jail, or is imprisoned therein for nonpayment of a fine, for contempt, or as a condition of probation for any criminal offense, or committed under the terms of Section 6404 or 6406 of the Welfare and Institutions Code as a habit-forming drug addict, the work furlough administrator may, if he concludes that such person is a fit subject therefor, direct that such person be permitted to continue in his regular employment, if that is compatible with the requirements of subdivision (d), or may authorize the person to secure employment for himself, unless the court at the time of sentencing or committing has ordered that such person not be granted work furloughs. The work furlough administrator may, if he concludes that such person is a fit subject therefor, direct that such person be permitted to continue in his regular educational program, if that is compatible with the requirements of subdivision (d), or may authorize the person to secure education for himself, unless the court at the time of sentencing has ordered that such person not be granted work furloughs.

(c) If the work furlough administrator so directs that the prisoner be permitted to continue in his regular employment or educational program, the administrator shall arrange for a continuation of such employment or education, so far as possible without interruption. If the prisoner does not have regular employment or a regular educational program, and the administrator has authorized the prisoner to secure employment or education for himself, the prisoner may do so, and the administrator may assist him in doing so. Any employment or education so secured must be suitable for the prisoner. Such employment or educational program, if such educational program includes earnings by the prisoner, must be at a wage at least as high as the prevailing wage for similar work in the area where the work is performed and in accordance with the prevailing working conditions in such area. In no event may any such employment or educational program involving earnings by the prisoner be permitted where there is a labor dispute in the establishment in which the prisoner is, or is to be, employed or educated.

(d) Whenever the prisoner is not employed or being educated and between the hours or periods of employment or education, he shall be confined in the facility designated by the board of supervisors for work furlough confinement unless the work furlough administrator directs otherwise. If the prisoner is injured during a

period of employment or education, the work furlough administrator shall have the authority to release him from the facility for continued medical treatment by private physicians or at medical facilities at the expense of the employer, workman's compensation insurer, or the prisoner. Such release shall not be construed as assumption of liability by the county or work furlough administrator for medical treatment obtained.

The work furlough administrator may release any prisoner classified for the work furlough program for a period not to exceed 72 hours for medical, dental, or psychiatric care, or for family emergencies or pressing business which would result in severe hardship if the release were not granted, or to attend such activities as the administrator deems may effectively promote the prisoner's successful return to the community, including, but not limited to, an attempt to secure housing, employment, entry into educational programs, or participation in community programs.

(e) The earnings of the prisoner may be collected by the work furlough administrator, and it shall be the duty of the prisoner's employer to transmit such wages to the administrator at the latter's request. Earnings levied upon pursuant to writ of execution or in other lawful manner shall not be transmitted to the administrator. If the administrator has requested transmittal of earnings prior to levy, such request shall have priority. In a case in which the functions of the administrator are performed by a sheriff, and such sheriff receives a writ of execution for the earnings of a prisoner subject to this section but has not yet requested transmittal of the prisoner's earnings pursuant to this section, he shall first levy on the earnings pursuant to the writ. When an employer or educator transmits such earnings to the administrator pursuant to this subdivision he shall have no liability to the prisoner for such earnings. From such earnings the administrator shall pay the prisoner's board and personal expenses, both inside and outside the jail, and shall deduct so much of the costs of administration of this section as is allocable to such prisoner, and, in an amount determined by the administrator, shall pay the support of the prisoner's dependents, if any. If sufficient funds are available after making the foregoing payments, the administrator may, with the consent of the prisoner, pay, in whole or in part, the preexisting debts of the prisoner. Any balance shall be retained until the prisoner's discharge and thereupon shall be paid to him.

(f) The prisoner shall be eligible for time credits pursuant to Sections 4018, 4019, and 4019.2.

(g) In the event the prisoner violates the conditions laid down for his conduct, custody, education, or employment, the work furlough administrator may order the balance of the prisoner's sentence to be spent in actual confinement.

(h) Willful failure of the prisoner to return to the place of confinement not later than the expiration of any period during which he is authorized to be away from the place of confinement pursuant

to this section is punishable as provided in Section 4532 of the Penal Code.

(i) As used in this section, "education" includes vocational and educational training and counseling; and psychological, drug abuse, alcoholic and other rehabilitative counseling; "educator" includes a person or institution providing such training or counseling.

(j) This section shall be known and may be cited as the "Cobey Work Furlough Law."

SEC. 3. Section 1 of this act shall be operative until the operative date of Chapter 1516 of the Statutes of 1974, at which time, it shall be of no force and effect.

SEC. 4. Section 2 of this act shall become operative on the operative date of Chapter 1516 of the Statutes of 1974.

SEC. 5. Section 3 of Chapter 53 of the Statutes of 1975 shall become inoperative on the effective date of this act, at which time it shall be of no force and effect.

CHAPTER 1252

An act to amend Sections 2, 3, 4, 6, 7, 8, 9, 12, 15, 16, 18, 21, 28, 29, 30, 31, 33, 34, 35, 36, 37, 38, 39, 42, 43, 45, 46, 47, 48, and 49 of, to amend and renumber Sections 25, 26, and 27 of, to add Sections 4.5 and 27 to, and to repeal Sections 15.1 and 15.2 of, the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), relating to the Castaic Lake Water Agency.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 2 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 2. The Castaic Lake Water Agency, hereinafter referred to as the "agency," is hereby created, organized and incorporated and shall be managed as herein expressly provided and may exercise the powers herein expressly granted or necessarily implied, and may include contiguous or noncontiguous parcels of both unincorporated and incorporated territory and territory included in any public district having similar powers and shall include all territory lying within the following described boundaries:

All that real property situate in the County of Los Angeles, State of California, more particularly described as follows:

Commencing at the northwesternmost corner of the Agency located at the northwest corner of the southwest one-quarter of the southwest one-quarter of Section 14, T. 5 N., R. 17 W., S.B.B. & M.; and proceeding along lines established by the public land surveys or

projections thereof except where noted;

Thence east to the northeast corner of the southeast one-quarter of the southeast one-quarter of Section 13, T. 5 N., R. 17 W.;

Thence south to the southwest corner of the northwest one-quarter of the northwest one-quarter of Section 30, T. 5 N., R. 16 W.;

Thence east to the southeast corner of the northwest quarter of the northwest one-quarter of Section 30, T. 5 N., R. 16 W.;

Thence south to the southwest corner of the southeast one-quarter of the southwest one-quarter of Section 30, T. 5 N., R. 16 W.;

Thence easterly to the northeast corner of the northwest one-quarter of Section 32, T. 5 N., R. 15 W.;

Thence north to the northwest corner of the southeast one-quarter of Section 29, T. 5 N., R. 15 W.;

Thence east to the northeast corner of the southeast one-quarter of Section 29, T. 5 N., R. 15 W.;

Thence north to the northeast corner of Section 29, T. 5 N., R. 15 W.;

Thence east to the northwest corner of the northeast one-quarter of Section 27, T. 5 N., R. 15 W.;

Thence south to the southwest corner of the southeast one-quarter of Section 27, T. 5 N., R. 15 W.;

Thence east to the northeast corner of the northwest one-quarter of the northeast one-quarter of Section 31, T. 5 N., R. 14 W.;

Thence south to the southeast corner of the southwest one-quarter of the southeast one-quarter of Section 31, T. 5 N., R. 14 W.;

Thence east to the quarter corner in the northerly line of Section 5, T. 4 N., R. 14 W.;

Thence south to the quarter corner in the southerly line of Section 5, T. 4 N., R. 14 W.;

Thence east to the quarter corner in the northerly line of Section 9, T. 4 N., R. 14 W.;

Thence south to the center of Section 16, T. 4 N., R. 14 W.;

Thence west to the quarter corner in the west line of Section 17, T. 4 N., R. 14 W.;

Thence south to the southeast corner of Section 18, T. 4 N., R. 14 W.;

Thence west to the quarter corner in the north line of Section 19, T. 4 N., R. 14 W.;

Thence south to the quarter corner in the southerly line of Section 19, T. 4 N., R. 14 W.;

Thence west to the northeast corner of Section 25, T. 4 N., R. 15 W.;

Thence south to the southeast corner of Section 1, T. 3 N., R. 15 W.;

Thence west to the southeast corner of Section 6, T. 3 N., R. 15 W.;

Thence south to the southeast corner of Section 18, T. 3 N., R. 15 W.;

Thence west along the southerly line of Section 18, T. 3 N., R. 15 W. to the southwest corner of said section;

Thence southwesterly to the most northerly corner of the boundary of the City of Los Angeles and thence southwesterly along said city boundary to its westerly intersection of the southerly line of the north half of the north half of Section 24, T. 3 N., R. 16 W.;

Thence westerly to the southwest corner of the northwest one-quarter of the northwest one-quarter of Section 24, T. 3 N., R. 16 W.;

Thence north to the northwest corner of Section 24, T. 3 N., R. 16 W.;

Thence westerly to the quarter corner in the south line of Section 14, T. 3 N., R. 16 W.;

Thence north to the northeast corner of the southeast one-quarter of the southwest one-quarter of Section 14, T. 3 N., R. 16 W.;

Thence west to the northwest corner of the southwest one-quarter of the southwest one-quarter of Section 14, T. 3 N., R. 16 W.;

Thence north to the quarter corner in the westerly line of Section 14, T. 3 N., R. 16 W.;

Thence west to the northwest corner of the northeast one-quarter of the southeast one-quarter of Section 15, T. 3 N., R. 16 W.;

Thence south to the southwest corner of the northwest one-quarter of the southeast one-quarter of Section 15, T. 3 N., R. 16 W.;

Thence west to the northwest corner of the southwest one-quarter of the southeast one-quarter of Section 15, T. 3 N., R. 16 W.;

Thence south to the quarter corner in the south line of Section 15, T. 3 N., R. 16 W.;

Thence west to the southwest corner of the southeast one-quarter of the southwest one-quarter of Section 15, T. 3 N., R. 16 W.;

Thence north to the northwest corner of the northeast one-quarter of the northwest one-quarter of Section 15, T. 3 N., R. 16 W.;

Thence west to the northwest corner of Section 16, T. 3 N., R. 16 W.;

Thence north to the northeast corner of Section 8, T. 3 N., R. 16 W.;

Thence west to the southwest corner of the southeast one-quarter of the southeast one-quarter of Section 6, T. 3 N., R. 16 W.;

Thence north to the northwest corner of the northeast one-quarter of the southeast one-quarter of Section 6, T. 3 N., R. 16 W.;

Thence west to the southeast corner of the southwest one-quarter of the northwest one-quarter of Section 6, T. 3 N., R. 16 W.;

Thence, on projected section lines through the Rancho San Francisco, northerly to the southeast corner of the northwest one-quarter of the northwest one-quarter of Section 31, T. 4 N., R. 16 W.;

Thence east to the southwest corner of the northeast one-quarter of the northeast one-quarter of Section 31, T. 4 N., R. 16 W.;

Thence north to the northwest corner of the northeast one-quarter of the northeast one-quarter of Section 31, T. 4 N., R. 16 W.;

Thence east to the northeast corner of Section 31, T. 4 N , R. 16 W.;

Thence north to the quarter corner in the east line of Section 19, T. 4 N., R. 16 W.;

Thence west to the northwest corner of the northeast one-quarter of the southwest one-quarter of Section 19, T. 4 N., R. 16 W.;

Thence north to the northeast corner of the northwest one-quarter of the northwest one-quarter of Section 19, T. 4 N., R. 16 W.;

Thence west to the northwest corner of Section 23, T. 4 N., R. 17 W.;

Thence north to the point of beginning at the northwest corner of the southwest one-quarter of the southwest one-quarter of Section 14, T. 5 N., R. 17 W., S.B.B. & M.,

Together with all territory annexed to the agency and exclusive of all territory excluded from the agency subsequent to the date of its creation.

SEC. 2. Section 3 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 3. The area is hereby divided into three divisions, such divisions being numbered first, second and third divisions.

The original first division shall include the northeast portion of the agency bounded on the south by a line running west from the northeast corner of Section 36, T. 4 N., R 15 W., S.B.B. & M. to the northwest corner of Section 31 of T. 4 N., R. 15 W., said line being extended westerly to the intersection of the common boundaries of the first, second and third divisions; and bounded on the west by a north-south line beginning at the quarter corner in the north line of Section 34, T. 5 N., R. 16 W. and extending south to intersect the south boundary of the first division.

The original second division shall include the southerly portion of the agency lying south of a line extending from the northeast corner of Section 36, T. 4 N., R. 15 W., thence westerly to the northwest corner of Section 31, T. 4 N., R. 15 W. and projected westerly through the southwest corner of the first division to the westerly boundary of the agency at the northeast corner of Section 31, T. 4 N., R. 16 W.

The original third division shall include the northwesterly portion of the agency not included in the first and second divisions.

Two directors shall be elected for each division by the voters thereof at the next general agency election following the organization of the agency and one director at large shall be elected at such election by the voters of the agency as a whole. Each director elected and appointed for a division shall be an elector in the division, and each director at large shall be an elector in the agency. Each director elected or appointed for a division is herein called a "divisional director," and the director elected or appointed for the agency at large is herein called "director at large."

SEC. 3. Section 4 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 4. Following each decennial federal census, and using

population figures as validated by the Population Research Unit of the Department of Finance as a basis, the board of directors shall, by resolution, adjust the boundaries of any or all divisions so that the divisions shall be as nearly equal in population as possible. Such resolution shall require the vote of at least six members of the board. At the time of or after each annexation of territory to the agency the board of directors shall designate by resolution the division of which such annexed territory shall be a part. No change in division lines shall be made within four (4) months next preceding the election of any divisional director nor shall such change in division lines work a forfeiture of the office of any director. Whenever such change is made in the division lines, each divisional director then in office, until his office becomes vacant by expiration of his term, or otherwise, shall continue to be the director for the division bearing the number of his division as formerly located, even though such divisional director is not a resident within the relocated division.

SEC. 4. Section 6 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 6. No later than 113 days before the general election the registrar of voters shall publish a notice designating the name and date of the election and the office or offices for which candidates are to be nominated. No later than 70 days before the general election the registrar of voters shall publish a notice giving the names and addresses of all candidates in the general Castaic Lake Water Agency election, the date of the election and the hours that the polls will be open.

If, on the 80th day prior to the day fixed for the agency general election, only one person has been nominated for each office of member of the board of directors to be filled at that election, or if no person has been nominated for any one or more of said offices, said board of directors shall by resolution entered in their minutes order that an election shall not be held, and shall immediately request that the board of supervisors of the county in which the agency or a greater portion thereof is situated, at a regular or special meeting held prior to the day of election, appoint, and the board of supervisors shall thereupon appoint, to the office or offices the person or persons who have been nominated, or if no person or persons have been nominated, any qualified person or persons. The person appointed shall qualify and take office and serve exactly as if elected at an agency general election.

In such case the second publication provided for in this section shall, instead of calling an election, state that no election is to be held but that the board of supervisors will either appoint those nominated for the positions of directors or appoint a qualified person or persons to the office or offices for which no one has been nominated, as the circumstances may warrant. All notices required by this section shall be published in a newspaper of general circulation published in the agency or, if no such newspaper of general circulation is published

in the agency, in a newspaper of general circulation distributed in the agency.

SEC. 5. Section 7 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 7. No person shall vote at any agency election held under the provisions of this act who is not a voter within the meaning of the Elections Code, residing in the agency, and in the case of an election of divisional directors in the division of the agency in which the person casts his vote. For the purpose of registering voters who shall be entitled to vote at agency elections, the county clerk or registrar of voters is authorized, in any county in which the agency exists, to indicate upon the affidavit of registration whether the voter is a voter of the agency.

In case the boundary line of the agency crosses the boundary line of a county election precinct only those voters within such agency and within such precinct who are registered as being voters within the agency shall be permitted to vote, and for that purpose the county clerk or registrar of voters is hereby empowered to provide two sets of ballots within such precincts, one containing the names of candidates for office in said agency, and the other not containing such names, and it shall be the duty of the election officers in such precincts to furnish only those persons registered as voters within such agency with the ballots upon which are printed the names of the candidates for office in the agency.

SEC. 6. Section 8 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 8. The provisions of the Elections Code so far as they may be applicable shall govern all general agency elections and all special agency elections, except as in this act otherwise provided.

In counties in which the agency is located the county clerk or registrar of voters is hereby given authority, and he hereby is authorized to have printed upon the official ballots provided for voters at elections for directors a heading in the same form as that provided by the Elections Code for nonpartisan officers, which heading shall be marked "Castaic Lake Water Agency," with the following subheading: "For Director at Large—Vote for One" and if the office of divisional director is to be voted on in that year in the division in question, then also with the subheading: "For a Member of the Board of Directors, Division _____ (here inserting the number of the division)—Vote for One." Beneath each such subheading shall appear the names of the candidates for the office of the agency shown in such subheading, with the appropriate blank space for the writing in of the name of a candidate, if desired by the voters, and with a voting square opposite the space.

SEC. 7. Section 9 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 9. The board of directors of the agency shall call and canvass or cause to be canvassed all elections involving matters of initiative, referendum and recall and shall call all other elections which it is authorized to canvass.

The governing body calling or conducting any election under the provisions of this act shall fix the compensation to be paid the officers of the election and shall designate the precincts and polling places for each division of the agency and shall appoint the officers of such election, who shall consist of one inspector, one judge, and two clerks, unless in case of consolidated elections, when the election officers shall be otherwise appointed as required by law.

The voting precincts for any such election may be established and the boundaries thereof fixed and described by such governing body, or such voting precincts may consist of either the regular election precincts or portions thereof within the agency established for holding state or county elections or a consolidation of any or all of such regular election precincts or portions thereof last established. If any agency election is consolidated with any state or county election, then the voting precincts, polling places, and election officers for the agency election shall be the same as those established for such state or county election.

SEC. 8. Section 12 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 12. The board of directors shall act only by ordinance, resolution, or motion. On all ordinances the roll shall be called and the ayes and noes recorded in the journal of the proceedings of the board of directors. Resolutions and motions may be adopted by voice vote, but on demand of any member the roll shall be called. No ordinance, motion, or resolution shall be passed or become effective without the affirmative vote of a majority of the members of the board. The enacting clause of all ordinances passed by the board shall be: "Be it ordained by the Board of Directors of the Castaic Lake Water Agency as follows:". Each of the members of the board of directors shall receive for each attendance at the meetings of the board and for each day's service rendered as a director at the request of the board, compensation in an amount not to exceed the then current and statutorily authorized meeting fee and per diem for directors of municipal water districts. No directors, however, shall receive meeting fees for more than three meetings in any calendar month, or per diem for more than five days in any calendar month, together with any expenses incidental thereto. Any vacancy in the board of directors shall be filled by a majority of the remaining directors, and the person so chosen shall hold office, unless otherwise required by law, for the remainder of the unexpired term.

SEC. 9. Section 15 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 15. The agency incorporated as herein provided, shall have

the power to acquire water from the State of California under the State Water Plan and to be a wholesale distributor of such water through a transmission system to be acquired or constructed by the agency, and to carry out these purposes shall have the following powers:

(a) To have perpetual succession.

(b) To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise, or lease, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the agency.

(e) To acquire, or contract to acquire, waterworks or a waterworks system. water rights, waters, lands, rights and privileges and to construct, complete, extend, add to, repair, maintain, improve and operate waterworks or a waterworks system, conduits, pipelines, reservoirs, works, machinery and other property or facilities useful or necessary to import, store, treat, reclaim, conserve, convey, or supply water for the benefit and use of residents and owners of property within the agency, and otherwise for authorized agency purposes.

(f) To lease of and from any person, firm or public or private corporation, or public agency, with the privilege of purchasing or otherwise, all or any part of water storage, transportation or distribution facilities, existing waterworks or a waterworks system, and to carry on and conduct waterworks or a waterworks system; also to sell for use within the area of the agency at wholesale only water of the agency to cities, to other public corporations and public agencies, and to water corporations as defined in the Public Utilities Code of the State of California, and to any mutual water companies engaged in distributing water to its members for use, without any preference and it may, whenever the board shall find that there is a surplus of water above that which may be required by such consumers within said agency, sell or otherwise dispose of such surplus water to any persons, firms, public or private corporations or public agencies or other consumers.

(g) To have and exercise the right of eminent domain and in the manner provided by law for the condemnation of private property for public use, to take any property necessary or desirable for any facility reasonably required for the importation and transmission of water in the area of the agency. In proceedings relative to the exercise of such right, the agency shall have all of the rights, powers and privileges of a city; provided, the agency in exercising such power, shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables or poles of any public utility which is required to be removed to a new location. No action in eminent domain to acquire property

or interests therein outside the boundaries of the agency shall be commenced unless the board of supervisors of each affected county has consented to such acquisition by resolution.

(h) To issue bonds, borrow money and incur indebtedness as authorized by law or in this act provided; also to refund (by the issuance of the same obligations following the same procedure) or retire any indebtedness or lien that may exist against the agency or property thereof; also to issue warrants to pay the formation expenses of the agency, which warrants may bear interest at a rate not exceeding 6 percent per annum from the date of issue until funds are available to pay the warrants, and which formation expenses may include fees of attorneys and others employed to conduct the formation proceedings.

(i) To issue negotiable promissory notes bearing interest at a rate not exceeding the maximum rate per annum authorized by Section 27 of this act; provided, however, that said notes shall be general obligations of the agency payable from revenues and taxes in the same manner as bonds of said agency; and provided further that the maturity shall not be later than five years from the date thereof and that the total aggregate amount of such notes outstanding at any one time may be at least equal to seventy-five thousand dollars ($75,000) but shall not otherwise exceed the lesser of either one million dollars ($1,000,000) or 2 percent of the assessed valuation of the taxable property in the agency, or, if said assessed valuation is not obtainable, 2 percent of the county auditor's estimate of the assessed valuation of the taxable property in the agency evidenced by his certificate.

(j) To cause taxes to be levied, in the manner hereinafter provided, for the purpose of paying any obligation of the agency, including its formation expenses and any warrants issued therefor.

(k) To restrict the use of agency water during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of agency water or the use of agency water during such periods, for any purpose other than household uses or such other restricted uses as may be determined to be necessary by the agency; to prohibit the use of such water during such periods for specific uses which the agency may from time to time find to be nonessential.

(*l*) To prescribe and define by ordinance, the restrictions, prohibitions and exclusions referred to in subdivision (k) hereof. Every ordinance relating to the matters referred to in this subdivision shall be in full force and effect forthwith upon adoption, but shall be published once in full within ten (10) days after adoption in a newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency.

(m) To make contracts, to employ labor, and do all acts necessary for the full exercise of the foregoing powers.

(n) In case of condemnation proceedings the board shall proceed in the name of the agency.

(o) To provide by ordinance of its board of directors for the pensioning of employees and the creation of a special fund for the purpose of paying such pensions, and the accumulation of contributions to said fund from the revenues of the agency, the wages of employees, voluntary contributions, gifts, donations or any source of revenue not inconsistent with the general powers of the board, and to contract with any insurance corporation or any other insurance carrier for the maintenance of a service covering the pension of such employees, and to provide in such ordinance for the terms and conditions under which such pensions shall be awarded, and for the time and extent of service of employees before such pensions shall be available to them.

(p) To join with one or more public agencies, private corporations or other persons for the purpose of carrying out any of the powers of the agency, and for that purpose to contract with such other public agencies or private corporations or persons for the purpose of financing such acquisitions, constructions and operations. Such contracts may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of such acquisitions and operations, and the division and apportionment of the benefits, the services and products therefrom, and may provide for any agency to effect such acquisitions and to carry on such operations, and shall provide in the powers and methods of procedure for such agency the method by which such agency may contract. Such contracts with other public agencies or private corporations or persons may contain such other and further covenants and agreements as may be necessary or convenient to accomplish the purposes thereof. Particularly, but not exclusively, the agency may contract with the State of California for delivery of water under the State Water Plan. The term "public agency," as used in this subdivision, shall be deemed to mean and include the United States of America or any department or agency thereof, the State of California or any department or agency thereof, a county, city, public corporation, the Metropolitan Water District of Southern California, or other public district of this state. The term "private corporation," as used in this subdivision, shall be deemed to mean and include any private corporation organized under the laws of the United States of America or of this or any other state thereof. Contracts mentioned herein include those made with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation. Any such contract with the United States of America or any department or agency thereof, or with any private corporation organized under the laws of the United States of America, by which the agency, or an improvement district thereof, incurs an indebtedness or liability exceeding in any year the income and revenue for such year shall not be executed without the assent of two-thirds of the qualified electors of the agency, or an improvement

district thereof, voting at a special election to be held for that purpose, such election to be called and held, so far as practicable, in the same manner as bond elections for the agency. The exact form of such contract need not be available at the time of the special election, but the (1) purpose of the contract; (2) maximum amount of the indebtedness created thereby; (3) maximum term of repayment, and (4) maximum interest rate on such indebtedness shall be known and included in the proposition or measure submitted to the qualified electors of the agency, or an improvement district thereof, at such special election.

(q) To issue bonds under Section 28 of this act for the purpose of providing money required to be paid by this agency to the State of California or any agency thereof under any contract which shall be made with it, or as all or part of the terms and conditions under which the corporate area of the agency may be annexed to and become a part of any metropolitan water district organized under the Metropolitan Water District Act. The amount of said bonds may include expenses of all proceedings for the authorization, issuance and sale of the bonds.

(r) To disseminate information concerning the rights, properties, and activities of the agency.

(s) To construct, operate and maintain works to develop hydroelectric energy, for use by the agency in the operation of its works or as a means of assisting in financing the construction, operation and maintenance of its projects for the control, conservation, diversion and transmission of water and to enter into contracts for the sale of such energy for a term not to exceed 50 years. Such energy may be marketed only at wholesale to any public agency or private entity, or both, or the federal or state government.

(t) To contract, in connection with the construction and operation of the works of the agency, for the sale of the right to use falling water for electric energy purposes with any public agency or private entity engaged in the retail distribution of electric energy, for a term not to exceed 50 years.

SEC. 9.5. Section 15 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 15. The agency incorporated as herein provided, shall have the power to acquire water from the State of California under the State Water Plan and to be a wholesale distributor of such water through a transmission system to be acquired or constructed by the agency, and to carry out these purposes shall have the following powers:

(a) To have perpetual succession.

(b) To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise, or lease, hold, use,

enjoy, and to lease or dispose of real and personal property of every kind, within or without the agency.

(e) To acquire, or contract to acquire, waterworks or a waterworks system, water rights, waters, lands, rights and privileges and to construct, complete, extend, add to, repair, maintain, improve and operate waterworks or a waterworks system, conduits, pipelines, reservoirs, works, machinery and other property or facilities useful or necessary to import, store, treat, reclaim, conserve, convey, or supply water for the benefit and use of residents and owners of property within the agency, and otherwise for authorized agency purposes.

(f) To lease of and from any person, firm or public or private corporation, or public agency, with the privilege of purchasing or otherwise, all or any part of water storage, transportation or distribution facilities, existing waterworks or a waterworks system, and to carry on and conduct waterworks or a waterworks system; also to sell for use within the area of the agency at wholesale only water of the agency to cities, to other public corporations and public agencies, and to water corporations as defined in the Public Utilities Code of the State of California, and to any mutual water companies engaged in distributing water to its members for use, without any preference and it may, whenever the board shall find that there is a surplus of water above that which may be required by such consumers within said agency, sell or otherwise dispose of such surplus water to any persons, firms, public or private corporations or public agencies or other consumers.

(g) To exercise the right of eminent domain to take any property necessary or desirable for any facility reasonably required for the importation and transmission of water in the area of the agency. The agency in exercising such power, shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables or poles of any public utility which is required to be removed to a new location. No action in eminent domain to acquire property outside the boundaries of the agency shall be commenced unless the board of supervisors of each affected county has consented to such acquisition by resolution.

(h) To issue bonds, borrow money and incur indebtedness as authorized by law or in this act provided; also to refund (by the issuance of the same obligations following the same procedure) or retire any indebtedness or lien that may exist against the agency or property thereof; also to issue warrants to pay the formation expenses of the agency, which warrants may bear interest at a rate not exceeding 6 percent per annum from the date of issue until funds are available to pay the warrants, and which formation expenses may include fees of attorneys and others employed to conduct the formation proceedings.

(i) To issue negotiable promissory notes bearing interest at a rate not exceeding the maximum rate per annum authorized by Section

27 of this act; provided, however, that said notes shall be general obligations of the agency payable from revenues and taxes in the same manner as bonds of said agency; and provided further that the maturity shall not be later than five years from the date thereof and that the total aggregate amount of such notes outstanding at any one time may be at least equal to seventy-five thousand dollars ($75,000) but shall not otherwise exceed the lesser of either one million dollars ($1,000,000) or 2 percent of the assessed valuation of the taxable property in the agency, or, if said assessed valuation is not obtainable, 2 percent of the county auditor's estimate of the assessed valuation of the taxable property in the agency evidenced by his certificate.

(j) To cause taxes to be levied, in the manner hereinafter provided, for the purpose of paying any obligation of the agency, including its formation expenses and any warrants issued therefor.

(k) To restrict the use of agency water during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of agency water or the use of agency water during such periods, for any purpose other than household uses or such other restricted uses as may be determined to be necessary by the agency; to prohibit the use of such water during such periods for specific uses which the agency may from time to time find to be nonessential.

(*l*) To prescribe and define by ordinance, the restrictions, prohibitions and exclusions referred to in subdivision 11(k) hereof. Every ordinance relating to the matters referred to in this subdivision shall be in full force and effect forthwith upon adoption, but shall be published once in full within ten (10) days after adoption in a newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency.

(m) To make contracts, to employ labor, and do all acts necessary for the full exercise of the foregoing powers.

(n) To provide by ordinance of its board of directors for the pensioning of employees and the creation of a special fund for the purpose of paying such pensions, and the accumulation of contributions to said fund from the revenues of the agency, the wages of employees, voluntary contributions, gifts, donations or any source of revenue not inconsistent with the general powers of the board, and to contract with any insurance corporation or any other insurance carrier for the maintenance of a service covering the pension of such employees, and to provide in such ordinance for the terms and conditions under which such pensions shall be awarded, and for the time and extent of service of employees before such pensions shall be available to them.

(o) To join with one or more public agencies, private corporations or other persons for the purpose of carrying out any of the powers of the agency, and for that purpose to contract with such other public agencies or private corporations or persons for the purpose of financing such acquisitions, constructions and operations. Such

contracts may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of such acquisitions and operations, and the division and apportionment of the benefits, the services and products therefrom, and may provide for any agency to effect such acquisitions and to carry on such operations, and shall provide in the powers and methods of procedure for such agency the method by which such agency may contract. Such contracts with other public agencies or private corporations or persons may contain such other and further covenants and agreements as may be necessary or convenient to accomplish the purposes thereof. Particularly, but not exclusively, the agency may contract with the State of California for delivery of water under the State Water Plan. The term "public agency," as used in this subdivision, shall be deemed to mean and include the United States of America or any department or agency thereof, the State of California or any department or agency thereof, a county, city, public corporation, the Metropolitan Water District of Southern California, or other public district of this state. The term "private corporation," as used in this subdivision, shall be deemed to mean and include any private corporation organized under the laws of the United States of America or of this or any other state thereof. Contracts mentioned herein include those made with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation. Any such contract with the United States of America or any department or agency thereof, or with any private corporation organized under the laws of the United States of America, by which the agency, or an improvement district thereof, incurs an indebtedness or liability exceeding in any year the income and revenue for such year shall not be executed without the assent of two-thirds of the qualified electors of the agency, or an improvement district thereof, voting at a special election to be held for that purpose, such election to be called and held, so far as practicable, in the same manner as bond elections for the agency. The exact form of such contract need not be available at the time of the special election, but the (1) purpose of the contract; (2) maximum amount of the indebtedness created thereby; (3) maximum term of repayment, and (4) maximum interest rate on such indebtedness shall be known and included in the proposition or measure submitted to the qualified electors of the agency, or an improvement district thereof, at such special election.

(p) To issue bonds under Section 28 of this act for the purpose of providing money required to be paid by this agency to the State of California or any agency thereof under any contract which shall be made with it, or as all or part of the terms and conditions under which the corporate area of the agency may be annexed to and become a part of any metropolitan water district organized under the Metropolitan Water District Act. The amount of said bonds may

include expenses of all proceedings for the authorization, issuance and sale of the bonds.

(q) To disseminate information concerning the rights, properties, and activities of the agency.

(r) To construct, operate and maintain works to develop hydroelectric energy, for use by the agency in the operation of its works or as a means of assisting in financing the construction, operation and maintenance of its projects for the control, conservation, diversion and transmission of water and to enter into contracts for the sale of such energy for a term not to exceed 50 years. Such energy may be marketed only at wholesale to any public agency or private entity, or both, or the federal or state government.

(s) To contract, in connection with the construction and operation of the works of the agency, for the sale of the right to use falling water for electric energy purposes with any public agency or private entity engaged in the retail distribution of electric energy, for a term not to exceed 50 years.

SEC 10. Section 15 1 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is repealed.

SEC. 11. Section 15.2 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is repealed.

SEC. 12. Section 16 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 16. All powers, privileges and duties vested in or imposed upon the agency incorporated hereunder shall be exercised and performed by and through the board of directors; provided, however, that the exercise of any and all executive, administrative and ministerial powers may be by said board of directors delegated and redelegated to any of the offices created hereby and by the board of directors acting hereunder.

The board of directors shall have the power:

(a) To fix the time and place or places at which its regular meetings shall be held, and shall provide for the calling and holding of special meetings.

(b) To fix the location of the principal place of business of the agency and the location of all offices and departments maintained hereunder.

(c) To prescribe by ordinance a system of business administration and to create any and all necessary offices and to establish and reestablish the powers and duties and compensation of all officers and employees and to require and fix the amount of all official bonds necessary for the protection of the funds and property of the agency.

(d) To prescribe by ordinance a system of civil service.

(e) To delegate and redelegate by ordinance to officers of the agency power to employ clerical, legal and engineering assistants and labor, and under such conditions and restrictions as shall be fixed

by the directors, power to bind the agency by contract.

(f) To prescribe a method of auditing and allowing or rejecting claims and demands.

(g) To prescribe methods for the construction of works and for the letting of contracts for the construction of works, structures or equipment, or the performance or furnishing of labor, materials, or supplies, necessary or convenient for carrying out any of the purposes of this act or for the acquisition or disposal of any real or personal property; provided, that all contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed five thousand dollars ($5,000), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three (3) insertions in a daily newspaper of general circulation published in the agency or by two (2) insertions in a nondaily newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in any newspaper of general circulation distributed in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The bonds shall comply with Chapter 3 (commencing with Section 4200) of Division 5 of Title 1 of the Government Code. The board may reject any and all bids. In the event all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed five thousand dollars ($5,000), or the work consists of channel protection, maintenance work, or emergency work when necessary in order to protect life and property from impending flood damage, the board may have the work done by force account without advertising for bids. The agency may purchase in the open market without advertising for bids, materials and supplies for use in any work, either under contract or by force account; provided, however, that materials and supplies for use in any new construction work or improvement, except work referred to in the preceding sentence, may not be purchased if the cost thereof exceeds five thousand dollars ($5,000), without advertising for bids and awarding the contract therefor to the lowest responsible bidder.

(8) To fix the rates at which water shall be sold, as provided herein, and to establish uniform rates for like classes of service throughout the agency, but any special water rate fixed in accordance with terms and conditions of annexation fixed by the board under the provisions of Section 36 or 37 hereof, may be

deemed to be a rate for a different class or condition of service.

SEC. 13. Section 18 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 18. From and after the publication or posting of any ordinance as provided in subdivision (*l*) of Section 15 of this act, it is hereby declared to be and it shall be a misdemeanor for any person, firm or corporation to use or apply water received from the agency contrary to or in violation of such restriction or prohibition, until such ordinance shall have been repealed or such emergency or threatened emergency shall have ceased, and upon conviction thereof such person, firm or corporation shall be punished by being imprisoned in the county jail for not more than 30 days or by fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

SEC. 14. Section 21 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 21. The president and secretary in addition to the respective duties imposed on them by law shall perform such duties as may be imposed on them by the board of directors. The treasurer, or such other person or persons as may be authorized by the board of directors, shall draw checks or warrants to pay demands when such demands shall have been audited and approved in the manner prescribed by the board of directors.

The board of directors shall designate a depository or depositories to have the custody of the funds of the agency, all of which depositories shall give security sufficient to secure the agency against possible loss, and who shall pay the warrants drawn by the treasurer for demands against the agency under such rules as the directors may prescribe.

All agency directors, the general manager, secretary and treasurer, and all employees or assistants of said agency who may be required so to do by the board of directors, shall give such bonds to the agency conditioned for the faithful performance of their duties as the board of directors from time to time may require.

The premiums on such bonds shall be paid by the agency.

SEC. 15. Section 25 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended and renumbered, to read:

Sec. 24. The board of directors, so far as practicable, shall fix such rate or rates for water in the agency and in each improvement district therein as will result in revenues which will pay the operating expenses of the agency, and the improvement district, provide for the payment of the cost of water received by the agency under the State Water Plan, provide for repairs and depreciation of works, provide a reasonable surplus for improvements, extensions, and enlargements, pay the interest on any bonded debt, and provide a sinking or other fund for the payment of the principal of such debt

as it may become due. Said rates for water in each improvement district may vary from the rates of the agency and from other improvement districts therein.

SEC. 16. Section 26 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended and renumbered, to read:

Sec. 25. If the revenues of the agency, or any improvement district therein, will be inadequate for any cause to pay the operating expenses of the agency, provide for repairs and depreciation of works owned or operated by it, and to meet all obligations of the agency, including principal of or interest on any bonded debt of the agency, or any improvement district thereof, as it becomes due, then the board of directors of this agency shall provide for the levy and collection of a tax sufficient to raise the amount of money determined by such board of directors to be necessary for the purpose of paying such charges and expenses, as well as providing the funds required under Section 24 of this act.

SEC. 17. Section 27 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended and renumbered, to read:

Sec. 26. The board of directors shall determine the amounts necessary to be raised by taxation during the fiscal year and shall fix the rate or rates of tax to be levied which will raise the amounts of money required by the agency, and within a reasonable time previous to the time when the board of supervisors is required by law to fix its tax rate, the board of directors shall certify to the board of supervisors the rate or rates so fixed and shall furnish to the board of supervisors a statement in writing containing the following: (a) an estimate of the minimum amount of money required to be raised by taxation during the fiscal year for the payment of the principal of and interest on any bonded debt of the agency or of an improvement district thereof as will become due before the proceeds of a tax levied at the next general tax levy will be available; (b) an estimate of the minimum amount of money required to be raised by taxation during the fiscal year for all other purposes of the agency. The board of directors shall direct that at the time and in the manner required by law for the levying of taxes for county purposes, such board of supervisors shall levy, in addition to such other tax as may be levied by such board of supervisors, at the rate or rates so fixed and determined by the board of directors, a tax upon the property within the agency, or improvement district thereof benefited by the bonded debt, as the case may be, and it is made the duty of the officer or body having authority to levy taxes within each county to levy the tax so required. Taxes for the payment of the interest on or principal of any bonded debts shall be levied on the property within the agency, or improvement district thereof, benefited by the bonded debt, as determined by the board of directors in the resolution declaring the necessity to incur the debt. Taxes for other purposes of the agency shall be levied on all property in the district or portion

thereof subject to the particular tax. It shall be the duty of all county officers charged with the duty of collecting taxes to collect such tax in the time, form, and manner as county taxes are collected, and when collected to pay the same to the agency. Taxes for the payment of a bonded debt and the interest thereon shall be a lien on all the property benefited thereby as stated in the resolution of the board of directors declaring the necessity to incur the debt. All taxes for other purposes of the agency shall be a lien on all the property in the agency subject to the respective tax. Agency taxes, whether for payment of a bonded indebtedness and the interest thereon or for other purposes, shall be of the same force and effect as other liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for state and county taxes.

SEC. 18. Section 27 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 27. The maximum rate of interest the agency shall be authorized to pay on any of its bonds, promissory notes, or other obligations shall not exceed the higher of 8 percent per annum, the maximum interest rate for municipal water district bonds as set forth in Section 71953 of the Water Code, or the maximum interest rate set forth in a general statute of the State of California governing local agencies or districts.

SEC. 19. Section 4.5 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 4.5. At any time between the decennial adjustments of division boundaries, the board of directors may adjust the boundaries of the divisions on the basis of any census ordered by the Los Angeles or Ventura County Board of Supervisors pursuant to Section 26203 of the Government Code, or on the basis of population estimates prepared by the State Department of Finance. Such adjustments shall be made pursuant to Section 4.

SEC. 20. Section 28 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 28. Whenever the board of directors deems it necessary for the agency to incur a bonded indebtedness for the acquisition, construction, completion, or repair of any or all improvements, works or property mentioned in this act, the board shall, by resolution, so declare and call an election to be held in said agency for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of said agency. Said resolution shall state: (a) the purpose for which the proposed debt is to be incurred, which may include expenses of all proceedings for the authorization, issuance and sale of the bonds; (b) the amount of debt to be incurred; (c) the maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 40 years; (d) the maximum rate of interest to be paid, which

shall not exceed the maximum rate per annum authorized by Section 27 of this act, payable semiannually, except that interest for the first year may be payable at the end of said year; (e) the measure to be submitted to the voters; (f) the date upon which an election shall be held for the purpose of authorizing said bonded indebtedness to be incurred; and (g) except in the case of consolidated elections, the designation of precincts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and two clerks in each precinct. The board of directors shall provide for holding such special election on the day so fixed and in accordance with the provisions of the Elections Code so far as the same shall be applicable, except as herein otherwise provided. Ballot arguments concerning such an election may be submitted pursuant to the provisions of the Elections Code with reference to county measures. Notice of the holding of such election shall be given by publishing pursuant to Section 6066 of the Government Code the resolution calling the election, the last publication to be made not less than two weeks prior to the date of the proposed election, in at least one newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency. Such resolution then shall be posted in three public places in such agency not less than two weeks prior to the date of the proposed election. No other notice of such election need be given. The returns of such election shall be made, and except in the case of consolidated elections, the votes canvassed by said board of directors within seven days following said election, and the results thereof ascertained and declared in accordance with the provisions of the Elections Code, so far as they may be applicable. The secretary of the board of directors, as soon as the result is declared, shall enter in the records of such board a statement of such results. No irregularities or informalities in conducting such election shall invalidate the same, if the election shall have otherwise been fairly conducted.

Any action or proceeding, wherein the validity of any such bonds or of the proceedings in relation thereto is contested, questioned or denied, shall be commenced within three months from the date of such election; otherwise, said bonds and all proceedings in relation thereto shall be held to be valid and in every respect legal and incontestable.

SEC. 21. Section 29 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 29. Whenever the board of directors deems it necessary to incur a bonded indebtedness for the acquisition, construction, completion, or repair of any or all improvements, works or property mentioned in this act and to provide for such bonded indebtedness to be payable from taxes levied upon less than all of the agency, the board shall, by resolution, so declare and state: (a) the purpose for

which the proposed debt is to be incurred; (b) the amount of debt to be incurred, which may include expenses of all proceedings for the authorization, issuance and the sale of the bonds; (c) that the board intends to form an improvement district of a portion of the agency which in the opinion of the board will be benefited, the exterior boundaries of which portion are set forth on a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the proposed improvement district, and to call an election in such proposed improvement district on a date to be fixed, for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the agency for said improvement district; (d) that taxes for the payment of said bonds and the interest thereon shall be levied exclusively upon the taxable property in the improvement district; (e) that a general description of the proposed improvement, together with a map showing the exterior boundaries of said proposed improvement district with relation to the territory immediately contiguous thereto and to the proposed improvement is on file with the secretary of the agency and is available for inspection by any person or persons interested; (f) the time and place for a hearing by the board on the questions of the formation of said proposed improvement district, the extent thereof, the proposed improvement and the amount of debt to be incurred; and (g) that at the time and place specified in the resolution any person interested, including all persons owning property in the agency or in the proposed improvement district, will be heard. Notice of said hearing shall be given by publishing a copy of the resolution pursuant to Section 6066 of the Government Code prior to the time fixed for the hearing in a newspaper of general circulation published in the agency, or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency. Such notice shall also be given by posting a copy of said resolution in six public places within the proposed improvement district at least two weeks before the time fixed for said hearing.

At the time and place so fixed, or at any time and place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing any person interested, including any person owning property within the agency or within the proposed improvement district, may appear and present any matters material to the questions set forth in the resolution declaring the necessity for incurring the bonded indebtedness. The board shall have the power to change the purpose for which the proposed debt is to be incurred, or the amount of bonded debt to be incurred, or the boundaries of said proposed improvement district, or one or all of said matters; provided, however, that said board shall not change such boundaries so as to include any territory which will not, in its judgment, be benefited by said improvement.

The purpose, amount of bonded debt or boundaries shall not be changed by said board except after notices of its intention to do so,

given by publication pursuant to Section 6061 of the Government Code in a newspaper of general circulation published in the agency, or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency, and by posting in six public places within said proposed improvement district. Said notice shall state the changed purpose and debt proposed and that the exterior boundaries as proposed to be changed are set forth on a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the proposed improvement district, and specify the time and place for hearing on such change, which time shall be at least 10 days after publication or posting of said notice. At the time and place so fixed, or at any time and place to which the hearing is adjourned, the board shall proceed with the hearing. At the hearing any person interested, including any person owning property within the agency or the proposed improvement district, may appear and present any matters material to the changes stated in the notice. At the conclusion of the hearing the board shall by resolution determine whether it is deemed necessary to incur the bonded indebtedness, and, if so, the resolution shall also state the purpose for which said proposed debt is to be incurred, the amount of the proposed debt, that the exterior boundaries of the portion of the agency which will be benefited are set forth on a map on file with the secretary of the agency which map shall govern for all details as to the extent of the improvement district, and that said portion of the agency set forth on said map shall thereupon constitute and be known as "Improvement District No. ____ of Castaic Lake Water Agency," and the determinations made in said resolution shall be final and conclusive. After the formation of such improvement district within the agency pursuant to this section, all proceedings for the purpose of a bond election shall be limited, and shall apply only to the improvement district, and taxes for the payment of said bonds and the interest thereon shall be levied exclusively upon the taxable property in the improvement district.

After the board has made its determination of the matters required to be determined by said last-mentioned resolution, and if the board deems it necessary to incur the bonded indebtedness, the board shall by a further resolution call a special election in said improvement district for the purpose of submitting to the qualified voters thereof the proposition of incurring indebtedness by the issuance of bonds of the agency for said improvement district. Said resolution shall state: (a) that the board deems it necessary to incur the bonded indebtedness; (b) the purpose for which the bonded indebtedness will be incurred; (c) the amount of debt to be incurred; (d) the improvement district to be benefited by said indebtedness, as set forth in the resolution making determinations, and that a map showing the exterior boundaries of said improvement district is on file with the secretary of the agency, which map shall govern for all details as to the extent of the improvement district; (e) that taxes for the payment of such bonds and the interest thereon shall be levied

exclusively upon the taxable property in said improvement district; (f) the maximum term the bonds proposed to be issued shall run before maturity, which shall not exceed 40 years; (g) the maximum rate of interest to be paid, which shall not exceed the maximum rate per annum authorized by Section 27 of this act, payable semiannually, except that interest for the first year may be payable at the end of the said year; (h) the measure to be submitted to the voters; (i) the date upon which an election shall be held for the purpose of authorizing said bonded indebtedness to be incurred; and (j) except in the case of consolidated elections, the designation of precincts, the location of polling places, and the names of the officers selected to conduct the election, who shall consist of one judge, one inspector and two clerks in each precinct.

The board of directors shall provide for holding such special election on the day so fixed and in accordance with the provisions of the Elections Code so far as the same shall be applicable, except as herein otherwise provided. Ballot arguments concerning such an election may be submitted pursuant to the provisions of the Elections Code with reference to county measures. Notice of the holding of such election shall be given by publishing pursuant to Section 6066 of the Government Code the resolution calling the election prior to the date of the proposed election in at least one newspaper of general circulation published in the agency, or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency. Such resolution shall also be posted in three public places in such improvement district not less than two weeks prior to the date of the proposed election. No other notice of such election need be given.

The returns of such election shall be made, and, except in the case of consolidated elections, the votes canvassed by said board of directors within seven days following said election, and the results thereof ascertained and declared in accordance with the provisions of the Elections Code so far as they may be applicable, except as in this act otherwise provided. The secretary of the board of directors, as soon as the result is declared, shall enter in the records of such board a statement of such results. No irregularities or informalities in conducting such election shall invalidate the same, if the election shall have otherwise been fairly conducted.

Any action or proceeding, wherein the validity of the formation of the improvement district or of any such bonds or of the proceedings in relation thereto is contested, questioned or denied, shall be commenced within three months from the date of such election; otherwise, said bonds and all proceedings in relation thereto, including the formation of the improvement district, shall be held to be valid and in every respect legal and incontestable.

SEC. 22. Section 30 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 30. Any portion of the agency whether contiguous or not to

an improvement district thereof may be annexed to said improvement district in the following manner. A petition, which may consist of any number of separate instruments, shall be filed with the secretary of the agency, signed by holders of title to sixty percent (60%) or more of the land in the portion proposed to be annexed, which land as so represented in said petition shall have an assessed valuation of not less than fifty percent (50%) of the land so proposed to be annexed. The petition shall contain the following: (a) a description of the area proposed to be annexed, which may be made by reference to a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the area proposed to be annexed, or in any other definite manner; (b) the terms and conditions upon which said proposed area may be annexed as theretofore determined by resolution adopted by the board of directors of the agency; and (c) a prayer that the board of directors declare such area to be annexed to the improvement district. Said petition shall be accompanied by a certified check payable to the order of the agency in sufficient sum to reimburse said agency for expenses of processing and publishing the petition and preparing and making the filings required by law.

Within 10 days of the date of the filing of such petition the secretary of the agency shall examine the same and ascertain whether or not such petition is signed by the required number of property owners; and, if requested by the secretary of the agency, the board of directors shall authorize him to employ persons especially for that purpose, in addition to the persons regularly employed in his office, and shall provide for their compensation. When the secretary of the agency has completed his examination of the petition, he shall attach to the same his certificate, properly dated, showing the result of such examination; and if from such examination he shall find that said petition is signed by the requisite number of property owners, or is not so signed, he shall certify that the same is sufficient, or insufficient, as the case may be.

If by the certificate of the secretary of the agency the petition is found to be insufficient, said petition may be amended by filing a supplemental petition or petitions within 10 days of the date of such certificate. The secretary of the agency shall within 10 days after the filing of such supplemental petition or petitions, make like examination of the same and certify to the result of such examination as hereinbefore provided.

If by the certificate of the secretary such petition or petition as amended, is shown to be sufficient the secretary shall cause notice of hearing on the petition to be published and posted without delay.

The text of said petition shall be published pursuant to Section 6066 of the Government Code prior to the time at which the same is to be presented to the board of directors of the agency in at least one newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency; together with a notice stating

the time and place of the meeting at which the same will be presented. When contained upon one or more instruments one copy only of such petition need be published. No more than five of the names attached to said petition need appear in said publication of said petition and notice, but the number of signers shall be stated. Said notice and petition shall also be posted in three public places in the improvement district and three public places in the area proposed to be annexed, at least two weeks prior to the hearing.

The board of directors of the agency shall proceed to hear the petition at the time and place fixed therefor and any person residing within the agency or improvement district or owning taxable property in said agency or improvement district shall be entitled to appear and be heard at such hearing. Such hearing may be continued from time to time by the board of directors of the agency. At the conclusion of the hearing, and if the board of directors finds and determines from the evidence presented at said hearing that the area proposed to be annexed to an improvement district will be benefited thereby, and that the improvement district to which said area proposed to be annexed will also be benefited thereby and will not be injured thereby, then and in such case the board of directors of the agency may, by resolution, approve such annexation, describing the territory so annexed, which may be by reference to a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the annexed area, or in any other definite manner, and approve the terms and conditions of annexation as theretofore determined by resolution of the board of directors.

From and after the date of the adoption of such resolution the area named therein shall be deemed added to and shall form a part of said improvement district and the taxable property therein shall be subject to taxation thereafter for the purposes of said improvement district, including the payment of the principal of and interest on bonds and other obligations of such improvement district authorized and outstanding at the time of said annexation as if said annexed property had always been a part of said improvement district, and the board of directors of the agency shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

Any action or proceeding wherein the validity of any such annexation is contested, questioned or denied must be commenced within three months after the date of issuance by the Secretary of State of his certificate; otherwise said annexation shall be held to be valid and in every respect legal and incontestable.

SEC. 23. Section 31 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 31. If from the returns it appears that more than two-thirds of the votes cast in an election held pursuant to the provisions of Section 28 or of Section 29 of this act, were in favor of and assented

to the incurring of such indebtedness, then the board of directors may, by resolution, at such time or times as it deems proper, issue bonds of the agency for the whole or any part of the amount of the indebtedness so authorized, and may from time to time provide for the issuance of such amounts as the necessity thereof may appear, until the full amount of such bonds authorized shall have been issued. Said full amount of bonds may be divided into two or more series and different dates fixed for each of the series. The maximum term which the bonds of any series shall run before maturity shall not exceed 40 years from the date of each series respectively.

The board of directors shall, by resolution, prescribe the form of the bonds and the form of the coupons attached thereto and fix the time when the whole or any part of the principal shall become due and payable. The payment of the first installment of principal may be deferred for a period of not more than five years from the date of the bonds or the date of the bonds of each series respectively. The bonds shall bear interest at a rate or rates not to exceed the maximum rate per annum authorized by Section 27 of this act, payable semiannually, except that interest for the first year may be payable at the end of said year. The board of directors may also provide for call and redemption of bonds prior to maturity at such times and prices and upon such other terms as it may specify. A bond shall not be subject to call or redemption prior to maturity unless it contains a recital to that effect or unless a statement to that effect is printed thereon.

The denomination of the bonds shall be stated in the resolution providing for their issuance, but shall not be less than one thousand dollars ($1,000). The principal and interest shall be payable in lawful money of the United States at the office of the treasurer of the district or such other place or places as may be designated, or at either place or places at the option of the holder of the bond.

The bonds shall be dated, numbered consecutively, and be signed by the president and treasurer of the agency, countersigned by the secretary of the agency, and the official seal of the agency attached. The interest coupons of such bonds shall be signed by the treasurer of said agency. All such signatures and countersignatures may be printed, lithographed, or mechanically reproduced, except that one of said signatures or countersignatures to said bonds shall be manually affixed.

If the bond election proceedings have been limited to and have applied only to an improvement district within said agency, said bonds are bonds of the agency and shall be issued in the name of the agency and shall be designated "Bonds of the Castaic Lake Water Agency for Improvement District No. _____" and each bond and all interest coupons thereof shall state that taxes levied for the payment thereof shall be levied exclusively upon the taxable property in said improvement district.

Before selling the bonds, or any part thereof, the board of directors shall give notice inviting sealed bids in such manner as it may

prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If no bids are received, or if said board determines that the bids received are not satisfactory as to price or responsibility of the bidders, it may reject all bids received, if any, and either readvertise or sell the bonds at private sale.

The proceeds arising from the sale of bonds shall be paid into the treasury of the agency and placed to the credit of a special improvement fund and expended only for the purpose for which the indebtedness was created; provided, however, that when said purpose has been accomplished any moneys remaining in said special improvement fund may be transferred to the fund to be used for the payment of principal of and interest on the bonds. Said remaining moneys remaining from the sale of bonds of the agency may also be used for some other agency purpose. Such moneys remaining from the sale of bonds of the agency for an improvement district therein may also be used for any purpose which will benefit the property in the improvement district. Said moneys may not be used for said other agency purpose or improvement district purpose until a majority of the qualified voters of said agency or improvement district voting have consented thereto at a special election called in said agency or improvement district by the board of directors. Notice of said election shall be given in the manner provided for bond elections in said agency or improvement district, as the case may be, and in other respects the election shall be conducted as are other agency elections. Ballot arguments concerning such an election may be submitted pursuant to the provisions of the Elections Code with reference to county measures.

SEC. 24. Section 33 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 33. Whenever the board of directors deems it necessary to form an improvement district of a portion of the agency for a purpose other than the incurring of bonded indebtedness under Section 29 of this act it shall by resolution so declare and state: (a) the purpose for which the proposed improvement district is to be formed, (b) the estimated expense of carrying out said purpose, (c) that the board intends to form an improvement district of a portion of the agency which in the opinion of the board will be benefited, the exterior boundaries of which portion are set forth on a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the proposed improvement district, (d) that taxes for carrying out said purpose shall be levied exclusively upon the taxable property in said proposed improvement district, (e) that a map showing the exterior boundaries of said proposed improvement district, with relation to the territory immediately contiguous thereto, is on file with the secretary of the agency and is available for inspection by any person or persons interested, (f) the time and place for a hearing by the board on the questions of the

formation of said proposed improvement district, the extent thereof, the purpose for which it is to be formed, and the estimated expense of carrying out said purpose and (g) that at said time and place any person interested, including all persons owning property in the agency or in the proposed improvement district will be heard. Notice of said hearing shall be given by publishing a copy of the resolution pursuant to Section 6066 of the Government Code prior to the time fixed for the hearing in a newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency. Said notice shall also be given by posting a copy of said resolution in three public places within the proposed improvement district for at least two weeks before the time fixed for said hearing.

At the time and place so fixed, or at any time or place to which the hearing is adjourned, the board shall proceed with the hearing at which hearing any person interested, including all persons owning property in the agency, or in the proposed improvement district, may appear and present any matters material to the questions set forth in the resolution. At the conclusion of the hearing the board shall by resolution determine whether it is necessary to form said improvement district, and, if so, the resolution shall also state the purpose for which the proposed improvement district is to be formed, estimated expense of carrying out said purpose, that the exterior boundaries of the portion of the agency which will be benefited are set forth on a map on file with the secretary of the agency, which map shall govern for all details as to the extent of the improvement district, and that said portion of the agency set forth on said map, shall thereupon constitute and be known as "Improvement District (A, B, C, or other letter designation) of the Castaic Lake Water Agency," and the determinations made in said resolution shall be final and conclusive. After the formation of such improvement district within the agency pursuant to this section all taxes levied for the carrying out of said purpose shall be levied exclusively upon the taxable property in the improvement district.

A copy of the resolution forming the improvement district shall be published pursuant to Section 6066 of the Government Code in a newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency, and a copy of said resolution shall also be posted in three public places within the proposed improvement district for at least two weeks. Said resolution shall not be effective until the 31st day after completion of said publication and posting. If before said effective date a petition signed by not less than 10 percent of the voters of the proposed improvement district requesting that an election be held on the formation thereof is presented to the board of directors, said board shall call a special election in the proposed improvement district for the purpose of submitting the question of the formation of the improvement district

to the voters of said proposed improvement district.

The board of directors shall provide for holding such special election on the day so fixed and in accordance with the provisions of the Elections Code so far as the same shall be applicable, except as herein otherwise provided. Notice of the holding of such election shall be given by publishing the resolution calling the election pursuant to Section 6066 of the Government Code prior to the date of the proposed election, in at least one newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency. Such resolution shall also be posted in three public places in such improvement district not less than two weeks prior to the date of the proposed election. No other notice of such election need be given.

The returns of such election shall be made and, except in the case of consolidated elections, the votes canvassed by said board of directors within seven days following said election, and the results thereof ascertained and declared in accordance with the provisions of the Elections Code so far as they may be applicable, except as in this act otherwise provided. The secretary of the board of directors, as soon as the result is declared, shall enter in the records of such board a statement of such results. No irregularities or informalities in conducting such election shall invalidate the same, if the elections shall have otherwise been fairly conducted.

If from such returns it appears that a majority of the votes cast at such election were in favor of the formation of such improvement district, the formation of such improvement district shall be complete.

Any action or proceeding wherein the validity of the formation of the improvement district or of any of the proceedings in relation thereto is contested, questioned or denied, shall be commenced within three months from the effective date of the resolution forming such district, or if an election is held, within three months from the date of such election, otherwise the formation of the improvement district and all proceedings in relation thereto, shall be held to be valid and in every respect legal and incontestable.

SEC. 25. Section 34 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 34. The board of directors may advance general funds of the agency to accomplish the purposes of an improvement district formed in accordance with Section 29 or 33 and, if the improvement district is formed under Section 29, may repay the agency from the proceeds of the sale of bonds authorized for such purpose, or if the improvement district is formed under Section 33 may, in the formation of such improvement district, provide that the agency shall be repaid with interest at not to exceed the maximum rate per annum authorized by Section 27 of this act from the special taxes levied exclusively upon the taxable property in said improvement district.

SEC. 26. Section 35 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 35. Interest on any bonds issued by the agency coming due before the proceeds of a tax levied at the next general tax levy after the sale of said bonds are available, may be paid from the proceeds of the sale of such bonds; provided that the percentage of the proceeds of any sale of the bonds to be used for said purpose shall not exceed the maximum interest rate authorized, for other purposes, by Section 27 of this act.

SEC. 27. Section 36 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 36. Land not a part of the agency whether or not contiguous to it or to other portions added to the agency, and consisting of any portion of the county wherein the agency was formed or of any municipality therein, or of land in any county contiguous to the county wherein the agency was formed or of any municipality therein, may be included within the agency. Unless otherwise required by law, such annexation shall occur in the following manner. A petition, which may consist of any number of separate instruments, shall be filed with the secretary of the agency, signed by voters residing within the boundaries of the area proposed to be annexed equal in number to at least 10 per centum of the number of such voters voting for all candidates for the office of Governor of this state at the last general election at which a Governor was elected prior to the filing of such petition. Such petition shall set forth and describe the boundaries of the area proposed to be annexed and shall contain a prayer that such area be annexed to such agency.

The text of such petition shall be published once a week for at least two weeks, the last publication to be made not less than one week nor more than four weeks before the time at which the same is to be presented to the board of directors of the agency in at least one newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency, together with a notice stating the time of the meeting at which the same will be presented. When contained upon one or more instruments, one copy only of such petition need be published. No more than five of the names attached to said petition need appear in said publication of said petition and notice, but the number of signers shall be stated.

Within 10 days of the date of the filing of such petition the secretary of the agency shall examine the same and ascertain whether or not such petition is signed by the requisite number of voters; and if requested by the secretary of the agency, the board of directors shall authorize him to employ persons especially for that purpose, in addition to the persons regularly employed in his office, and shall provide for their compensation. When the secretary of the

agency has completed his examination of the petition, he shall attach to the same his certificate, properly dated, showing the result of such examination; and if from such examination he shall find that said petition is signed by the requisite number of voters or is not so signed, he shall certify that the same is sufficient or insufficient, as the case may be.

If, by the certificate of the secretary of the agency, the petition is found to be insufficient, he shall also certify to the number of voters required to make such petition sufficient, and it may be amended by filing a supplemental petition or petitions within 10 days of the date of such certificate. The secretary of the agency shall, within 10 days after the filing of such supplemental petition or petitions, make like examination of the same and certify to the result of such examination as hereinbefore provided.

If his certificate shall show any such petition, or such petition as amended, to be insufficient, it shall be filed by him with the board of directors of the agency and kept as a public record, without prejudice, however, to the filing of a new petition to the same effect. But if, by the certificate of the secretary, such petition, or petition as amended, is shown to be sufficient, the secretary shall present the same to the board of directors, without delay.

If any supplemental petition be filed, all the signatures appended to the petition or to the supplemental petition or petitions shall be considered in determining the number of voters signing the petition.

After an election for the annexation of such area to the agency, the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned.

Such petition may be granted by ordinance of the board of directors of such agency. In granting such petition, such board of directors may fix in said ordinance the terms and conditions upon which such annexation may occur, and such terms and conditions may provide, among other things, for the levy by such agency of special taxes upon taxable property within such annexed area or areas in addition to the taxes elsewhere in this act authorized to be levied by such agency, and in case such terms and conditions shall provide for the levy of such special taxes, the board of directors, in fixing such terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising such aggregate sum and that substantially equal annual levies will be made for the purpose of raising such sum over the period so prescribed. Such terms and conditions also may provide, among other things, that a special water rate may be fixed from time to time by the board of directors for the area or areas proposed to be annexed. Such terms and conditions also may further provide that the taxable property in the annexed area shall be subject to taxation to the extent set forth in such terms and conditions for the purpose of the payment of bonds and other obligations of such agency at the time authorized or outstanding. If such petition is granted the proposition of such annexation subject to the terms and conditions

so fixed, shall be submitted to the vote of the voters in the proposed addition, at an election called by the board of directors and held, as herein provided, within 70 days after the effective date of such ordinance. Notice of such election shall be given by publication in a newspaper of general circulation published in the agency once a week for three successive weeks, the last publication to be not more than four weeks nor less than one week prior to the date fixed for such election. If no such newspaper is published in the agency, said notice shall be published in a newspaper of general circulation distributed in the agency. Such notice shall describe the boundaries of the area or areas so proposed to be annexed and shall designate such territory by some appropriate name, or other words of identification, by which such territory may be referred to and indicated upon the ballot to be used at any election at which the question of such annexation is submitted, as in this act provided. Such notice also shall contain the substance of the terms and conditions fixed by the board of directors, as herein provided. The measure so submitted at such election shall be stated on the ballot substantially as follows: "Shall _____ (giving the name or other designation of the territory proposed to be annexed, as stated in the notice of election) be annexed to the Castaic Lake Water Agency, subject to the terms and conditions fixed by the board of directors of said agency?" At the right of such proposition there shall be printed the words "Yes" and "No" with voting squares. Ballot arguments concerning such an election may be submitted pursuant to the provisions of the Elections Code with respect to county measures. The board of directors shall canvass or cause to be canvassed the votes cast at such election and if such proposition is approved by a majority of the voters voting thereon at such election, the president and secretary of the board of directors shall certify that fact to the Secretary of State and to the county recorders of all counties in which such agency annexed territory is located. Upon receipt of such last-mentioned certificate, the Secretary of State shall within 10 days, issue his certificate, reciting the passage of said ordinance and the addition of said area or areas to said agency. A copy of said certificate shall be transmitted to, and filed with the county clerks of all counties in which such agency annexed territory is situated. From and after the date of such certificate, the area or areas named therein shall be deemed added to, and shall form a part of, said agency, and the taxable property therein shall be subject to taxation thereafter for the purposes of said agency, and the board of directors of such agency shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

SEC. 28. Section 37 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 37. Uninhabited territory within a county in which the agency is situated may be added to such agency pursuant to the

provisions of this section. For the purposes hereof, territory shall be deemed uninhabited if less than 12 voters reside therein at the time of the filing of the petition for annexation or the initiation of proceedings by resolution of the board. Such uninhabited territory, whether consisting of unincorporated territory or of incorporated territory or of both such unincorporated and incorporated territory, may consist of one or more parcels, which need not be contiguous one with the other or with the agency.

Proceedings for the annexation of uninhabited territory to the agency may be initiated by petition. Such petition, which may consist of any number of separate instruments, shall be filed with the secretary of the agency, signed by the owners of not less than one-fourth of the land in such territory by area and by assessed value as shown on the last equalized assessment roll of the county in which such territory is situated. A guardian, executor, administrator, or other person holding property in a trust capacity under appointment of court, may sign any petition or protest provided for in this section, when authorized by the proper court, which authorization may be made without notice. The last equalized assessment roll of said county is prima facie evidence of the ownership of the land or lands lying within such territory proposed to be annexed. Such petition shall set forth and describe the boundaries of the area proposed to be annexed and shall contain a prayer that such area be annexed to such agency pursuant to the provisions of this section.

The secretary shall present such petition to the board of directors of the agency at its next meeting, and said board, without delay, shall pass a resolution giving notice of the proposed annexation. Said resolution shall state that such petition has been filed, shall set forth and describe the boundaries of the territory proposed to be annexed, shall contain the terms and conditions of annexation, if any, prescribed by the board as hereinafter authorized, shall state that any owner of property within such territory may file with the secretary of the agency, at any time prior to the hour set for the hearing thereof, written protest to the annexation of such territory, or to the annexation of such territory upon such terms and conditions, as the case may be, and shall fix the time and place of the meeting of the board at which the board will hear such protests.

The board of directors of the agency by resolution may initiate proceedings for the annexation of uninhabited territory to such agency. Such resolution shall declare that proceedings have been initiated by the board of directors under the provisions of this section, shall state the reason for proposing such annexation, shall set forth and describe the boundaries of the territory proposed to be annexed, shall contain the terms and conditions of annexation, if any, prescribed by the board as hereinafter authorized, shall state that any owner of property within such territory may file with the secretary of the agency, at any time prior to the hour set for the hearing thereof, written protest to the annexation of such territory, or the annexation of such territory upon such terms and conditions,

as the case may be. and shall fix the time and place of the meeting of the board at which the board will hear such protests.

Said hearing shall be commenced not less than 20 nor more than 40 days after the passage of the resolution of the board of directors. The secretary of the agency shall cause the text of the resolution to be published once each week for at least two weeks, the last publication to be made not less than one week nor more than four weeks before the time so fixed for the hearing, in at least one newspaper of general circulation published in the agency or, if no such newspaper of general circulation is published in the agency, in a newspaper of general circulation distributed in the agency.

After the date of issuance by the Secretary of State of his certificate reciting the passage of the ordinance approving the annexation and the addition of the uninhabited territory to the agency, the sufficiency of the petition or resolution shall not be subject to judicial review or be otherwise questioned.

At any time prior to the hour set for the hearing of protests, any owner of property within the territory proposed to be annexed may file with the secretary of the agency written protest against the annexation, or against the annexation upon the terms and conditions specified in the resolution as the case may be. The protest shall state the name of the owner of the property affected, and the description and area of such property in general terms. At the hearing, which may be adjourned from time to time, the board of directors shall hear and pass upon all protests so filed. If such protests are so filed by the owners of one-half of the value of the territory proposed to be annexed as shown by the last equalized assessment roll of the county, further proceedings shall not be taken. If such protest is not made, the ordinance approving such annexation shall set forth and describe the boundaries of the territory so annexed and the terms and conditions of annexation, if any, prescribed by the board as hereinafter authorized. If the board of directors disapproves the annexation, or the annexation subject to such terms and conditions, as the case may be, a new proceeding to annex any of the same territory shall not be initiated under this section for a period of 12 months from the effective date of the ordinance.

The board of directors may approve the annexation of such territory upon terms and conditions fixed by the board in the manner hereinafter provided. Such terms and conditions may provide, among other things, for the levy by such agency of special taxes upon taxable property within such annexed area or areas in addition to the taxes elsewhere in this act authorized to be levied by such agency, and in case such terms and conditions shall provide for the levy of such special taxes, the board of directors, in fixing such terms and conditions, shall specify the aggregate amount to be so raised and the number of years prescribed for raising such aggregate sum and that substantially equal annual levies will be made for the purpose of raising such sum over the period so prescribed. Such terms and conditions also may provide, among other things, that a special water

rate may be fixed from time to time by the board of directors for the area or areas proposed to be annexed. Such terms and conditions also may further provide that the taxable property in the annexed area shall be subject to taxation to the extent set forth in such terms and conditions for the purpose of the payment of bonds and other obligations of such agency at the time authorized or outstanding. The board shall propose such terms and conditions either in the resolution adopted subsequent to the filing of a petition for annexation or in the resolution initiating the proceedings, as the case may be, or in a resolution adopted by the board at the hearing. Terms and conditions proposed in a prior resolution may be amended and the amended terms and conditions proposed in a resolution adopted by the board at the hearing. If such terms and conditions or amended terms and conditions, are proposed by the board in a resolution adopted at the hearing, the board shall adjourn the hearing for not less than 20 nor more than 40 days, to a time and place to be fixed in such resolution, and said resolution shall state that any owner of property within such territory may file with the secretary of the agency, at any time prior to the hour set for the adjourned hearing, written protest to the annexation of such territory upon such terms and conditions. The secretary of the agency shall cause the text of the resolution to be published for the time and in the manner required for publication of the resolution giving notice of the original hearing. If prior to the hour set for the adjourned hearing, written protests, in the form hereinabove prescribed, to the annexation of such territory subject to such terms and conditions, are filed with the secretary of the agency by the owners of one-half of the value of said territory as shown by the last equalized assessment roll of the county, further proceedings shall not be taken. If such protest is not made, the board of directors shall by ordinance approve or disapprove the annexation. If approved, such annexation shall be subject to the terms and conditions, or amended terms and conditions, so proposed by resolution of the board, which terms and conditions shall be set forth in the ordinance.

When an ordinance approving annexation of uninhabited territory becomes effective, the president and secretary of the board of directors shall file with the Secretary of State a certified copy of the ordinance. Upon receipt of the certified copy of the ordinance, the Secretary of State shall, within 10 days, issue his certificate reciting the passage of said ordinance and the addition of said area or areas to said agency. A copy of said certificate shall be transmitted to, and filed with, the county clerks of all counties in which the annexed territory of such agency is situated. From and after the date of such certificate, the area or areas named therein shall be deemed added to, and shall form a part of said agency, and the taxable property therein shall be subject to taxation thereafter for the purposes of said agency, and the board of directors of such agency shall be empowered to do all things necessary to enforce and make effective the terms and conditions of annexation fixed as hereinabove authorized.

Notwithstanding the eligibility of any territory for annexation to the agency pursuant to the provisions of this section, the procedure herein prescribed shall not be deemed exclusive and such territory may be annexed to such agency as a separate parcel, or as part of a larger parcel, of territory annexed under the provisions of Section 36 of this act.

SEC. 29. Section 38 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 38. Territory included within the agency may be excluded from such agency. Such territory may consist of one or more parcels, which need not be contiguous one with the other.

Proceedings for the exclusion of territory from the agency may be initiated by petition. Such petition, which may consist of any number of separate instruments, shall be filed with the secretary of the agency, signed by voters residing within the boundaries of the area proposed to be excluded equal in number to at least ten (10) per centum of the number of such voters voting for all candidates for the office of Governor of this state at the last general election prior to the filing of such petition; provided, that where one or more cities, or parts thereof, are included in the areas so proposed to be excluded, such petition must be signed by at least ten (10) per centum of the voters of each such city, or part thereof, so voting at such election. Such petition shall set forth and describe the boundaries of the area proposed to be excluded, shall state the reason for proposing such exclusion and shall contain a prayer that such area be excluded from the agency.

Within ten (10) days of the date of the filing of such petition the secretary of the agency shall examine the same and ascertain whether or not such petition is signed by the requisite number of voters; and if requested by the secretary of the agency, the board of directors shall authorize him to employ persons especially for that purpose, in addition to the persons regularly employed in his office, and shall provide for their compensation. When the secretary of the agency has completed his examination of the petition, he shall attach to the same his certificate, properly dated, showing the result of such examination; and if from such examination he shall find that said petition is signed by the requisite number of voters, or is not so signed, he shall certify that the same is sufficient or insufficient, as the case may be.

If, by the certificate of the secretary of the agency, the petition is found to be insufficient, he shall also certify to the number of voters required to make such petition sufficient, and it may be amended by filing a supplemental petition or petitions within ten (10) days of the date of such certificate. The secretary of the agency shall, within ten (10) days after the filing of such supplemental petition or petitions, make like examination of the same and certify to the result of such examination as hereinbefore provided

If any supplemental petition be filed, all the signatures appended to the petition or to the supplemental petition or petitions shall be considered in determining the number of voters signing the petition.

If his certificate shall show any such petition, or such petition as amended, to be insufficient, it shall be filed by him with the board of directors of the agency and kept as a public record, without prejudice, however, to the filing of a new petition to the same effect. But if, by the certificate of the secretary, such petition, or petition as amended is shown to be sufficient, the secretary shall present the same to the board of directors without delay.

The text of such petition shall be published once each week for at least two weeks, the last publication to be made not less than one week nor more than four weeks, before the time at which the same is to be presented to the board of directors of the agency in at least one newspaper of general circulation published in the agency or, if no such newspaper of general circulation is published in the agency, in a newspaper of general circulation distributed in the agency, together with a notice stating the time of the meeting at which the same will be presented. When contained upon more than one instrument, one copy only of such petition need be published. No more than five of the names attached to said petition need appear in such publication of said petition and notice, but the number of signers shall be stated.

After an election for the exclusion of such area from the agency the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned.

The board of directors of the agency, by resolution, may initiate proceedings for the exclusion of territory from such agency. Such resolution shall describe the boundaries of the area proposed to be excluded, shall state the reason for proposing such exclusion, shall require all persons interested in the proposed exclusion to appear before the board and be heard as to why said area should not be so excluded, shall fix the time of the meeting of the board at which persons so interested will be heard, and shall direct the secretary of the agency to give notice thereof. The secretary whereupon shall cause the text of said resolution and a notice of the time and place of said hearing to be published once each week for at least two weeks, the last publication to be made not less than one week nor more than four weeks, before the time so fixed for the hearing, in at least one newspaper of general circulation published in the agency or, if no such newspaper of general circulation is published in the agency, in a newspaper of general circulation distributed in the agency.

After an election for the exclusion of such area from the agency the sufficiency of such resolution shall not be subject to judicial review or be otherwise questioned.

If the proceedings for exclusion have been initiated by petition, such petition may be granted by ordinance of the board of directors of such agency. If such proceedings have been initiated by resolution, the board of directors shall hear all persons interested in the

proposed exclusion who appear at the hearing, which may be adjourned from time to time, and after the conclusion of the hearing, the board may determine by ordinance that such area should be excluded from the agency. If such petition is granted or if such determination is made, the proposition of such exclusion shall be submitted to the vote of the voters within the area proposed to be excluded, at an election called by the board of directors and held, as herein provided, within 70 days after the effective date of such ordinance. Ballot arguments concerning such an election may be submitted pursuant to the provisions of the Elections Code with reference to county measures. Notice of such election shall be given by publication in a newspaper of general circulation published in the agency or, if no such newspaper of general circulation is published in the agency, in a newspaper of general circulation distributed in the agency. Such publication shall occur once a week for three successive weeks, the last publication to be not more than four weeks nor less than one week, prior to the date fixed for such election. Such notice shall describe the boundaries of the area so proposed to be excluded and shall designate such area by some appropriate name, or other words of identification, by which such area may be referred to and indicated upon the ballot to be used at any election at which the question of such exclusion is submitted, as in this act provided. The measure so submitted at such election shall be stated on the ballot substantially as follows:

"Shall _____ (giving the name or other designation of the area proposed to be excluded, as stated in the notice of the election) be excluded from the Castaic Lake Water Agency?"

At the right of such proposition there shall be printed the words "Yes" and "No" with voting squares. The board of directors shall canvass or cause to be canvassed the votes cast at such election and if such proposition is approved by a majority of the voters voting thereon at such election, the president and secretary of the board of directors shall certify that fact to the Secretary of State. Upon receipt of such last-mentioned certificate, the Secretary of State shall, within 10 days, issue his certificate reciting the passage of said ordinance and the exclusion of said area from said agency. A copy of said certificate shall be transmitted to, and filed with, the county clerks of all counties in which the excluded territory of the agency is situated. From and after the date of such certificate, the area named therein shall be deemed excluded from, and shall no longer form a part of said agency, but the taxable property within such excluded area shall continue taxable by the agency for the purpose of paying the bonded or other indebtedness of the agency outstanding or contracted for at the time of such exclusion and until such bonded or other indebtedness shall have been satisfied, to the same extent that such property would be taxable for such purpose if such exclusion had not occurred.

SEC. 30. Section 39 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is

amended to read:

Sec. 39. Uninhabited territory included within the agency may be excluded from such agency pursuant to the provisions of this section. For the purposes hereof, territory shall be deemed uninhabited if less than 12 voters reside therein at the time of the filing of the petition for exclusion or the initiation of proceedings by resolution of the board. Where any part of the corporate area of any city is included in the territory proposed to be excluded from the agency, the whole of the corporate area of such city, or a part thereof, then included within such agency shall be included in the territory so proposed to be excluded from such agency. Such uninhabited territory may consist of one or more parcels, which need not be contiguous one with the other.

Proceedings for the exclusion of uninhabited territory from the agency may be initiated by petition. Such petition, which may consist of any number of separate instruments, shall be filed with the secretary of the agency, signed by the owners of not less than one-fourth of the land in such territory by area and by assessed value as shown on the last equalized assessment roll of the county or counties in which such territory is situated. A guardian, executor, administrator, or any person holding property in a trust capacity under appointment of court, may sign any petition or protest provided for in this section, when authorized by the proper court, which authorization may be made without notice. The last equalized assessment roll of said county is prima facie evidence of the ownership of the land or lands lying within such territory proposed to be excluded. Such petition shall set forth and describe the boundaries of the area proposed to be excluded, shall state the reason for proposing such exclusion, and shall contain a prayer that such area be excluded from the agency pursuant to the provisions of this section.

The secretary shall present such petition to the board of directors of the agency at its next meeting, and said board, without delay, shall pass a resolution giving notice of the proposed exclusion. Said resolution shall state that said petition has been filed, shall set forth and describe the boundaries of the territory proposed to be excluded, shall state that any owner of property within such territory may file with the secretary of the agency, at any time prior to the hour set for the hearing thereof, written protest to the exclusion of such territory, and shall fix the time and place of the meeting of the board at which the board will hear such protests.

The board of directors of the agency by resolution may initiate proceedings for the exclusion of uninhabited territory from such agency. Such resolution shall declare that proceedings have been initiated by the board of directors under the provisions of this section, shall state the reason for proposing such exclusion, shall set forth and describe the boundaries of the territory proposed to be excluded, shall state that any owner of property within such territory may file with the secretary of the agency, at any time prior to the

hour set for the hearing thereof, written protest to the exclusion of such territory, and shall fix the time and place of the meeting of the board at which the board will hear such protests.

Said hearings shall be commenced not less than 20 nor more than 40 days after the passage of the resolution of the board of directors. The secretary of the agency shall cause the text of the resolution to be published once each week for at least two weeks, the last publication to be made not less than one week nor more than four weeks before the time so fixed for the hearing, in at least one newspaper of general circulation published in the agency or, if no such newspaper of general circulation is published in the agency, in a newspaper of general circulation distributed in the agency.

After the date of issuance by the Secretary of State of his certificate reciting the passage of the ordinance approving the exclusion and the exclusion of the uninhabited territory from the agency, the sufficiency of the petition or resolution shall not be subject to judicial review or be otherwise questioned.

At any time prior to the hour set for the hearing of protests, any owner of property within the territory proposed to be excluded may file with the secretary of the agency written protest against the exclusion. The protest shall state the name of the owner of the property affected, and the description and area of such property in general terms. At the hearing, which may be adjourned from time to time, the board of directors shall hear and pass upon all protests so filed. If such protests are so filed by the owners of one-half of the value of the territory proposed to be excluded as shown by the last equalized assessment roll of the county or counties, further proceedings shall not be taken. If such protest is not made, the board of directors shall approve or disapprove the exclusion by ordinance. Any ordinance approving such exclusion shall set forth and describe the boundaries of the territory so excluded. If the board of directors disapproves the exclusion, a new proceeding to exclude any of the same territory shall not be initiated under this section for a period of 12 months from the effective date of the ordinance.

When an ordinance approving exclusion of uninhabited territory becomes effective, the president and secretary of the board of directors shall file with the Secretary of State a certified copy of the ordinance. Upon receipt of the certified copy of the ordinance, the Secretary of State shall, within 10 days, issue his certificate reciting the passage of said ordinance and the exclusion of said area or areas from said agency. A copy of said certificate shall be transmitted to, and filed with, the county clerks of all counties in which the agency excluded territory is situated. From and after the date of such certificate, the area or areas named therein shall be deemed excluded from, and shall no longer form a part of, said agency, but the taxable property within such excluded area or areas shall continue taxable by such agency for the purpose of paying the bonded or other indebtedness of the agency outstanding or contracted for at the time of such exclusion and until such bonded

or other indebtedness shall have been satisfied, to the same extent that such property would be taxable for such purpose if such exclusion had not occurred.

Notwithstanding the eligibility of any territory for exclusion from the agency pursuant to the provisions of this section, the procedure herein prescribed shall not be deemed exclusive and such territory may be excluded from such agency as a separate parcel, or as part of a larger parcel, of territory excluded under the provisions of Section 38 of this act.

SEC. 31. Section 42 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 42. The Castaic Lake Water Agency organized under the terms of this act may be dissolved or disincorporated in the following manner:

A petition shall be filed with the county clerk of the principal county in which such agency is located, signed by at least 25 percent of the voters of the area included in the agency who voted at the last gubernatorial election, praying for the dissolution and disincorporation of such agency and briefly stating the reasons therefor. Upon the filing of such petition the county clerk shall examine the same within 10 days and ascertain whether or not said petition is signed by the requisite number of voters. When the said county clerk has completed his examination of the petition he shall attach to the same his certificate properly dated, showing the result of such examination, and if from such examination he shall find that said petition is signed by the requisite number of voters residing within the boundaries of the agency, or is not so signed, he shall certify that the same is sufficient or insufficient, as the case may be. If the same is found to be insufficient by him, supplemental petitions may be filed at the time and in the manner and for the same purpose as supplemental petitions to the original petition for the incorportion of the agency. After an election for the disincorporation of the agency hereunder the sufficiency of such petition in any respect shall not be subject to judicial review or be otherwise questioned.

If by the certificate of the county clerk such petition, or such petition as amended or supplemented, is shown to be sufficient, the county clerk shall present the same to the board of supervisors without delay. When such petition is presented by the county clerk as aforesaid, the board of supervisors shall give notice of an election to be held in said agency for the purpose of determining whether or not the same shall be disincorporated and dissolved; provided, however, that in the event the said agency shall have issued bonds, the board of supervisors shall not consider said petition or take any action hereunder until evidence shall be furnished showing said bonds to have been fully satisfied. Said notice of election shall be published in a newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency at least

once a week for three successive weeks, the last publication to be not more than four weeks nor less than one week prior to the date fixed for the election; said notice shall state that the question of disincorporating said corporation shall be submitted to the voters of said agency at the time appointed for such election, and voters shall be invited thereby to vote upon such proposition by placing upon their ballots the cross as provided by law after the words "For Disincorporation" or "Against Disincorporation." The board of supervisors shall cause a copy of said notice to be mailed by the clerk of said board to each of the directors of said agency, within five days after the date of the first publication thereof, and no election shall be had until proof of such mailing is furnished by affidavit of the clerk of said board. Such election shall be held and conducted in the same manner as the election on the organization of said agency, as nearly as practicable. Ballot arguments concerning such an election may be submitted pursuant to the provisions of the Elections Code with reference to county measures. Within seven days after the date of said election, the board of supervisors shall proceed to canvass the vote cast thereat; if it be found by the canvass of said votes that less than a majority of the votes cast were in favor of disincorporation, said board of supervisors shall declare the petition for disincorporation is denied. In case it shall appear from said canvass that a majority of all the votes cast were in favor of disincorporation, said board of supervisors shall make and cause to be entered upon the records of their proceedings an order that the petition for such disincorporation be granted, and declaring that the Castaic Lake Water Agency be disincorporated; said order to take effect at the time hereinafter provided. Said board of supervisors shall in case said agency is so disincorporated, forthwith cause its clerk, or other officer performing the duties of clerk, to make and transmit to the Secretary of State a certified copy of the notice of election hereinbefore provided for, and a statement of the number of voters voting for said disincorporation and the number of voters voting against said disincorporation. Twenty days from and after the holding of the election, in case a majority of said votes were cast in favor of said disincorporation, said agency shall be forever disincorporated.

SEC. 32. Section 43 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 43. Upon disincorporation of the agency in the manner hereinbefore provided for, the board of supervisors of the principal county shall forthwith, after ascertaining by said canvass that the disincorporation has been carried, determine the amount of the indebtedness of said agency, the amount of money in the treasury thereof and all indebtedness due or coming due the said agency, and the directors of said agency shall furnish the said board of supervisors with a statement showing said amount of indebtedness, the amount of money in the treasury and all indebtedness due or coming due said

agency, and said agency shall before the expiration of 30 days turn over to the treasury of said county all moneys of said agency in his possession, and said county treasurer shall place said money in a special fund to be drawn upon as hereinafter provided for. Upon the disincorporation of said agency every public officer of said agency shall immediately turn over to the board of supervisors of the principal county in which said agency is situated, all public property of every nature and description in their possession, and including all public records and data of every nature and description. Nothing contained in this act shall be held to relieve said agency or the territory included within it, from any liability or any debt contracted by said agency prior to its disincorporation. All warrants for said indebtedness shall be drawn on order of said board of supervisors of the county, on the fund hereinabove provided for in the county treasury of the principal county. All moneys paid into the county treasury under the provisions of this act shall be placed in the special fund hereinbefore provided for. If at any time after the disincorporation of said agency it shall be found that there is not sufficient money in the treasury to the credit of the fund hereinbefore provided, with which to pay the indebtedness of said agency, said board of supervisors shall have the power, and it shall be their duty, to levy upon, and there shall be collected from, the property within the territory formerly included within said agency subject to taxation for the indebtedness, a tax or taxes sufficient in amount to pay the said indebtedness as the same shall become due; such tax or taxes, assessments and collections shall be made in the same manner and at the same time that other taxes of the county are levied and collected, and they shall be an additional tax within said territory for the payment of said debts. If after payment of all debts of said agency there shall remain any surplus in the hands of said county treasurer to the credit of the fund hereinbefore mentioned, the board of supervisors shall appropriate said surplus and declare a dividend pro rata to the taxpayers of said agency duly paid, and said taxpayers shall have the right to have the amount of such pro rata dividends refunded to them on demand, and the said board of supervisors shall refund such pro rata to said taxpayers and each thereof. The board of supervisors of the principal county in which said agency has been disincorporated, shall have the power and it shall be the duty of said board, if the board of directors of such agency shall fail or refuse to return to said board the statement of said amounts as hereinbefore in this act provided, to ascertain the indebtedness, other than the bonded indebtedness, of said agency at the time of its disincorporation, the amount of money in its treasury and the amount due it at the said time; said board of supervisors shall make provision for the collection of the amounts due to said agency for the closing up of its affairs, and any act or acts necessary for said purposes not otherwise herein provided for, shall upon the order of said board of supervisors directing the same, be as fully done and performed and with as full effect as if the same had been performed

by the proper officers of said agency before disincorporation, and said county shall succeed to and possess all the right of said agency in and to said indebtedness, and shall have the power to sue for or otherwise collect any such debts in the name of said county, and all costs and expenses of ascertaining the facts hereinbefore mentioned, and all other costs and expenses incurred by the board of supervisors in the execution of the orders and duties of said board of supervisors provided for in this act, shall be paid out of the special fund in this act provided for.

It is the intention that the agency shall not be disincorporated until all bonded indebtedness shall have been fully paid, and the word "indebtedness" as used herein is meant to refer to all indebtedness other than said bonded indebtedness unless the latter is expressly mentioned.

SEC. 33. Section 45 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 45. Nothing in this act shall be so construed as repealing or in anywise modifying the provisions of any other act relating to water or the supply of water to, or the acquisition thereof, by cities within this state. The term "city," as used in this act, shall mean and include any city, whether organized or functioning under a freeholders' charter or under the provisions of general law. The word "agency" shall apply, unless otherwise expressed or used, to the Castaic Lake Water Agency formed under the provisions of this act, and the word "board", the words "governing body," and the words "board of directors" shall apply to the board of directors of such agency. The meaning of the term "voter," as used in this act, shall be ascertained by reference to Section 21 of the Elections Code.

SEC. 34. Section 46 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 46. If there shall be a registrar of voters, other than the county clerk, in the principal county in which the agency is hereby incorporated, the duties required by this act to be performed by the county clerk respecting the nomination of candidates for offices of such water agency and the holding of other elections in such agency, shall be performed by such registrar of voters.

SEC. 35 Section 47 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 47. The agency formed hereunder may contain lands situate in more than one county and this agency may annex lands situate in another county or counties. In either such case the lands need not be contiguous. The procedure relating to formation, annexation, dissolution, disincorporation, exclusion, fiscal matters and taxation shall conform as near as may be to such provisions with respect to agencies containing lands located in one county, subject to the following provisions:

(a) The secretary of the board of directors of the Castaic Lake Water Agency containing land in more than one county shall perform or cause to be performed all duties prescribed by law to be performed by county clerks or registrars of voters, as the case may be, in connection with agency elections and such duties of county clerks as are required by this act which relate to annexation, dissolution, disincorporation and exclusion, and, where necessary such secretary is authorized to procure from the proper county officials all requisite registration books and copies of indexes thereof; all papers required by this act to be filed with a county clerk shall be filed with said secretary and the board of directors shall perform or cause to be performed all duties prescribed by law to be performed by boards of supervisors in connection with agency elections and such duties as are required by this act which relate to annexation, dissolution, disincorporation and exclusion of territory.

(b) Immediately after equalization and not later than the 15th day of August of each year, it shall be the duty of the auditor of each county wherein such agency or any part thereof shall lie, to prepare and deliver to the secretary of the agency or such other officer thereof as may be designated by the board of directors therefor a certificate showing the assessed valuation of all property within the agency lying within the county. Thereafter, the board of directors shall make the certification and statement, and issue the directions, as required by Section 26 of this act. After collection of taxes by the proper county officers at the rate specified, such officers shall pay the moneys received therefrom to the agency.

Whenever an improvement district within the Castaic Lake Water Agency is itself located in two or more counties, the method and procedure for the apportionment of agency taxes between counties shall apply to such improvement district.

(c) Whenever provision is made in this act for notice within a county, it shall be construed to require notice only within those counties where more than 5 percent of the agency population is domiciled at the time of said notice.

(d) "Principal county" as used in this act means the county in which the greater portion of land of the Castaic Lake Water Agency is located.

SEC. 36. Section 48 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 48. All acts and parts of acts in conflict herewith are hereby repealed. If any section, subsection, sentence, clause or phrase of this act or the application thereof to any person or circumstance is for any reason held invalid, the validity of the remainder of the act or the application of such provision to other persons or circumstances shall not be affected thereby. The Legislature hereby declares that it would have passed this act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases or the application

thereof to any person or circumstance be held invalid.

SEC. 37. Section 49 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 49. The inclusion in, or annexation or addition to this agency of the corporate area of any public corporation or public agency shall not destroy the identity or legal existence or impair the powers of any such public corporation or public agency, notwithstanding the identity of purpose, or substantial identity of purpose of this agency. No public corporation or public agency having identity of purpose or substantial identity of purpose shall be formed partly or entirely within this agency, whether by incorporation or annexation, without the consent of the board of directors of this agency.

SEC. 38. It is the intent of the Legislature, if this bill and Assembly Bill No. 129 are both chaptered and become effective January 1, 1976, both bills amend Section 15 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962 (First Extraordinary Session)), and this bill is chaptered after Assembly Bill No. 129, that Section 15 of the Castaic Lake Water Agency Law, as amended by Section 3 of Assembly Bill No. 129 be further amended on the operative date of this act in the form set forth in Section 9.5 of this act to incorporate the changes in Section 15 of the Castaic Lake Water Agency Law proposed by this bill. Therefore, Section 9.5 of this act shall become operative only if this bill and Assembly Bill No. 129 are both chaptered and become effective January 1, 1976, both bills amend Section 15 of the Castaic Lake Water Agency Law, and this bill is chaptered after Assembly Bill No. 129, in which case Section 9.5 of this act shall become operative on the operative date of this act and Section 9 of this act shall not become operative.

SEC. 39. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local governmental entity which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1253

An act to amend Sections 966, 967, 11251, and 12103 of, to amend and renumber Section 10609 of, to add Sections 10605.1, 10608, 10609, 10609.1, 10609.2, 10609.3, and 10609.4, to, and to repeal Section 10608 of, the Education Code, relating to public schools and making an appropriation therefor.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 966 of the Education Code is amended to read:

966. Except as provided in Sections 54957 and 54957.6 of the Government Code and in Section 967 of, and subdivision (c) of Section 10608 of, this code, all meetings of the governing board of any school district shall be open to the public, and all actions authorized or required by law of the governing board shall be taken at such meetings and shall be subject to the following requirements:

(a) Minutes must be taken at all such meetings, recording all actions taken by the governing board. Such minutes shall constitute public records, and shall be available to the public. Until the governing board adopts such minutes as the official minutes, such minutes shall be labeled the unadopted minutes. The official minutes shall also constitute public records and shall be available to the public.

(b) A list of items that will constitute the agenda for all regular meetings shall be posted at a place where parents and teachers may view the same at least 48 hours prior to the time of said regular meeting, and, in the case of special meetings, at least 24 hours prior to said special meeting.

SEC. 2. Section 967 of the Education Code is amended to read:

967. Notwithstanding the provisions of Section 966 of this code and Section 54950 of the Government Code, the governing body of a school district shall hold executive sessions if the board is considering the suspension of, or disciplinary action, or any other action except expulsion in connection with any pupil of the school district, if a public hearing upon such question would lead to the giving out of information concerning school pupils which would be in violation of Section 10751.

Before calling such executive session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the pupil is a minor, notify the pupil and his parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board of the district to call and hold such executive session. Unless the pupil, or his parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters shall be conducted by the governing board in executive session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public except that any discussion at such meeting that might be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting or on behalf of whom such meeting is requested, shall be in executive session. Whether the matter is considered at an executive session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

SEC. 2.5. Section 967 of the Education Code is amended to read:

967. Notwithstanding the provisions of Section 966 of this code and Section 54950 of the Government Code, the governing body of a school district shall, unless a request by the parent has been made pursuant to this section, hold executive sessions if the board is considering the suspension of, or disciplinary action or any other action except expulsion in connection with any pupil of the school district, if a public hearing upon such question would lead to the giving out of information concerning school pupils which would be in violation of Section 10751 or Sections 10944 and 10947.

Before calling such executive session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the pupil is a minor, notify the pupil and his parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board of the district to call and hold such executive session. Unless the pupil, or his parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters shall be conducted by the governing board in executive session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public except that any discussion at such meeting that might be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting or on behalf of whom such meeting is requested, shall be in executive session. Whether the matter is considered at an executive session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

SEC. 3. Section 10605.1 is added to the Education Code, to read:

10605.1. A governing board that has voted to expel a pupil may suspend the enforcement of such expulsion for a period of not more than one full semester in addition to the balance of the semester in which the board votes to expel and may, as a condition of such suspended action, assign the pupil to a school, class, or program which is deemed appropriate for rehabilitation of the pupil. In lieu of other authorized educational programs to which the pupil may be assigned, such school, class, or program may be offered as a community-centered classroom and may include experiences for the pupil as an observer or aide in governmental functions, as an on-the-job trainee, and as a participant in specialized tutorial experiences or individually prescribed educational and counseling programs. Such programs shall include an individualized learning program to enable pupil to continue academic work for credit toward graduation and shall qualify for state apportionment based on average daily attendance for only those hours in courses which earn credit for graduation and which conform to the provisions of Section 11251 of the Education Code.

At the conclusion of the designated period during which an expulsion action is suspended, the governing board shall: (1) reinstate a pupil who has satisfactorily participated in a school, class, or program to which such pupil has been assigned as a condition of the suspended action and permit the pupil to return to the school of former attendance or voluntarily to attend other programs offered by the district; or (2) if a pupil's conduct has been unsatisfactory, enforce the expulsion action previously voted by the board.

If the pupil is reinstated, the board may also take action to expunge the record of the expulsion action.

SEC. 3. Section 10608 of the Education Code is repealed.

SEC. 4. Section 10608 is added to the Education Code, to read:

10608. The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. Such procedures shall include, but are not necessarily limited to the following:

(a) The pupil and his parent or guardian shall be entitled to a hearing to determine whether the pupil should be expelled.

(b) Written notice of the hearing shall be forwarded to the pupil and his parent or guardian at least 10 days prior to the date of the hearing. Such notice shall include: the date and place of the hearing, a statement of the specific charges upon which the proposed expulsion is based, a copy of all the rules of the district which pertain to discipline adopted pursuant to Section 1052, the opportunity of the pupil or his parent or guardian to appear in person or to employ and be represented by counsel, and the opportunity of the pupil and his parent or guardian to present evidence, oral and documentary.

(c) Notwithstanding the provisions of Section 54950 of the Government Code and Section 966 of the Education Code, the governing board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public unless the pupil or his parents or guardian shall, in writing and at least five days prior to the date of the hearing, request that the hearing be a public meeting. If such request is served upon the governing board, the meeting shall be public.

(d) In lieu of conducting an expulsion hearing itself, the governing board of any school district may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California pursuant to Chapter 14 (commencing at Section 27720), Part 3, Division 2, Title 3 of the Government Code and Section 1016.9 of the Education Code, for a hearing officer to conduct such hearing or the governing board may appoint an impartial administrative panel of three or more certificated employees of the district, none of whom shall be on the staff of the school in which the pupil is enrolled. In lieu of the appointment of district employees exclusively, the district may request the services of one or more certificated persons not employed by the district. Such hearing shall not be conducted in conflict with any procedures established in this section. Following such hearing, the hearing officer or administrative

panel shall present findings of fact and recommendations to the board. The governing board shall thereafter accept the findings of fact and recommendations if such findings of fact and recommendations call for a rejection of expulsion. The governing board may reject the findings of fact and recommendations if such findings of fact and recommendations call for expulsion. All findings of fact and recommendations shall be based either upon a review of the transcript of the hearing or upon the results of such supplementary hearing or investigation as the governing board may order.

(e) A record of the hearing shall be made. Such record, may be maintained by any means, including electronic recording, so long as a reasonably accurate written transcription of the proceedings can be made.

(f) Technical rules of evidence shall not apply to such hearing, but evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The decision of the governing board must be supported by substantial evidence.

(g) Whether a pupil expulsion hearing is conducted in closed or public session, by the governing board or before a hearing officer or administrative panel, the final action shall be taken by the governing board at a public meeting. Written notice of any decision to expel shall be sent to the pupil or parent or guardian and shall be accompanied by notice of the right to appeal such expulsion to the county board of education.

SEC. 5. Section 10609 of the Education Code is amended and renumbered to read:

10621. All pupils shall comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of the schools.

SEC. 6. Section 10609 is added to the Education Code, to read:

10609. If a pupil is expelled from school, the pupil or the parent or guardian of the pupil may appeal, within 30 days following the decision to expel by the governing board, to the county board of education which shall hold a hearing thereon and render its decision.

The county board of education shall establish rules and regulations governing procedures for expulsion appeals pursuant to this section and not in conflict with Sections 10609.1 through 10609.4, including, but not limited to notice of filing such appeal, setting the hearing date, certification to the county board of the record of the proceedings at the district level, hearing procedures, and preservation of a record of the hearing.

SEC. 7. Section 10609.1 is added to the Education Code, to read:

10609.1. Notwithstanding the provisions of Section 54950 of the Government Code and Section 966 of the Education Code, the county board of education shall hear an appeal of an expulsion in executive session unless the pupil or his parent or guardian shall, in writing at least five days prior to the date of the hearing, request that

the hearing be a public meeting. If such request is served upon the county board, the meeting shall be public.

SEC. 8. Section 10609.2 is added to the Education Code, to read:

10609.2. The county board of education shall determine the appeal from a pupil expulsion upon the record of the hearing before the district governing board, together with such applicable documentation or regulations as may be ordered. No evidence other than that contained in the record of the proceedings of the school board may be heard unless a de novo proceeding is granted as provided in Section 10609.3.

It shall be the responsibility of the appellant to submit a written transcription for review by the county board. The cost of such transcript shall be borne by the appellant except (1) where the appellant certifies that he or she cannot reasonably afford the cost of the transcript because of limited income or exceptional necessary expenses, or both; or (2) in a case in which the county board reverses the decision of the local governing board pursuant to subdivision (b) of Section 10609.3, the county board shall require that the local board reimburse the appellant for the cost of such transcription. The review by the county board of the decision of the governing board shall be limited to the following questions:

(a) Whether the governing board has proceeded without or in excess of its jurisdiction.

(b) Whether there was a fair hearing before the governing board.

(c) Whether there was a prejudicial abuse of discretion in the hearing, as such abuse of discretion is described in subdivision (b) of Section 1094.5 of the Code of Civil Procedure.

(d) Whether there is relevant evidence, which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board.

SEC. 9. Section 10609.3 is added to the Education Code, to read:

10609.3. The decision of the county board shall be limited as follows:

(a) Where the county board finds that relevant evidence exists which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board, or finds that there was otherwise a denial of due process, it may:

(1) Remand the matter to the governing board for reconsideration and may in addition order the pupil reinstated pending such reconsideration; or, instead,

(2) Grant a hearing de novo upon reasonable notice thereof to the parent or guardian of the pupil and to the governing board. Such hearing shall be conducted in conformance with the procedures set forth in Section 10608.

(b) In all other cases, the county board shall enter an order either affirming or reversing the decision of the governing board. In any case in which the county board enters a decision reversing the local board, the county board may direct the local board to expunge the

record of the pupil and the records of the district of any references to the expulsion action and such expulsion shall be deemed not to have occurred.

SEC. 10. Section 10609.4 is added to the Education Code, to read:

10609.4. The decision of the county board of education shall be final and binding upon the pupil and the parent or guardian of the pupil, and upon the governing board of the school district. The final order of the county board shall be in writing and copies thereof shall be delivered to the pupil and the parent or guardian and to the governing board by personal service or by certified mail. The order shall become final when rendered.

SEC. 11. Section 11251 of the Education Code is amended to read:

11251. (a) In computing the average daily attendance of a school district, there shall be included only the attendance of pupils while engaged in educational activities required of such pupils and under the immediate supervision and control of an employee of the district who possessed a valid certification document, registered as required by law, authorizing him to render service in the capacity and during the period in which he served. For purposes of computing the average daily attendance of a community college district, attendance shall also include student attendance and participation in approved coordinated instruction systems programs of instruction using television, computer-assisted instruction, automated audiovisual systems, programmed learning materials, and other similar teaching techniques, under the coordination and evaluation of an employee who possessed an appropriate certification document, but not requiring the immediate supervision of such employee. Approved coordinated instruction systems programs of instruction are those recommended by the governing board of the district maintaining the community college and approved by the Board of Governors of the California Community Colleges. One student contact hour is to be counted for each unit of coordinated instruction systems credit in which a student is enrolled during any census period. The state aid apportionment made by the board of governors shall not be greater than one-half the current costs of conducting approved coordinated instruction systems programs of instruction. Coordinated instruction systems programs of instruction shall be conducted by employees of the district who possess valid credentials or certification documents, who shall determine the need for immediate supervision of the programs of instruction. Such employees shall evaluate individual student progress and assign appropriate grades for students enrolled in classes taught by the coordinated instruction systems programs of instruction.

(b) For the purpose of work experience education programs in the secondary schools meeting the standards of the California State Plan for Vocational Education, "immediate supervision" of off-campus work training stations means pupil participation in on-the-job training as outlined under a training agreement,

coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in any such work experience program shall not exceed 125 students per full-time equivalent certificated coordinator. A pupil enrolled in such work experience program shall not be credited with more than one day of attendance in any calendar day, and shall be a full-time student enrolled in regular classes meeting the requirements set forth in Section 11052 or 11055.

(c) For purposes of computing the average daily attendance of a community college district, attendance shall also include student attendance and participation in in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations that conform to all apportionment attendance and course of study requirements otherwise imposed by law; provided that such courses are fully open to the enrollment and participation of the public pursuant to subdivision (2) of Section 5753; and provided further, that prerequisites for such courses shall not be established or construed so as to prevent academically qualified persons not employed by agencies in the criminal justice system from enrolling in and attending such courses.

(d) In the event that certain in-service training courses are restricted to employees of police, fire, corrections, and other criminal justice agencies, attendance for such restricted courses shall not be reported for purposes either of state apportionments or district revenue limits computed pursuant to Sections 20935 and 20937. Notwithstanding the provisions of Section 5753, a community college district which restricts enrollment in such in-service training courses may contract with any public agency to provide compensation for the cost of conducting such courses.

(e) Positive records of student admissions and daily attendance in all in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations, as described in subdivision (c), shall be maintained by each district and shall be separately reported annually to the Chancellor's office of the California Community Colleges.

(f) For the purposes of the rehabilitative schools, classes, or programs described in Section 10605.1, "immediate supervision" in such schools, classes or programs means pupil participation in such programs wherein the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district. Such programs shall be approved by the Department of Education and certified by the county superintendent of schools.

SEC. 11.5. Section 11251 of the Education Code is amended to read:

11251. (a) In computing the average daily attendance of a school district, there shall be included only the attendance of pupils while

engaged in educational activities required of such pupils and under the immediate supervision and control of an employee of the district who possessed a valid certification document, registered as required by law, authorizing him to render service in the capacity and during the period in which he served. For the purposes of computing the average daily attendance of high school students in a school district, attendance shall also include pupil attendance and participation in an independent study program under the coordination, evaluation, and general, but not immediate, supervision of an employee of the district who possessed a valid certification document. The nature, manner, and place of conducting any independent study program shall be determined by the school district pursuant to rules and regulations adopted by the State Board of Education and shall be an integral part of any decision pursuant to Section 10605.1 to suspend the expulsion action of the board. The school district shall ensure that the components of each individual study program for each individual pupil shall be set out in writing. A pupil enrolled in an independent study program shall not be credited with more than one day of attendance in any calendar day, and shall be a full-time student enrolled in regular classes meeting the requirements set forth in Section 11052. For purposes of computing the average daily attendance of a community college district, attendance shall also include student attendance and participation in approved coordinated instruction systems programs of instruction using television, computer-assisted instruction, automated audiovisual systems, programmed learning materials, and other similar teaching techniques, under the coordination and evaluation of an employee who possessed an appropriate certification document, but not requiring the immediate supervision of such employee. Approved coordinated instruction systems programs of instruction are those recommended by the governing board of the district maintaining the community college and approved by the Board of Governors of the California Community Colleges. One student contact hour is to be counted for each unit of coordinated instruction systems credit in which a student is enrolled during any census period. The state aid apportionment made by the board of governors shall not be greater than one-half the current costs of conducting approved coordinated instruction systems programs of instruction. Coordinated instruction systems programs of instruction shall be conducted by employees of the district who possess valid credentials or certification documents, who shall determine the need for immediate supervision of the programs of instruction. Such employees shall evaluate individual student progress and assign appropriate grades for students enrolled in classes taught by the coordinated instruction systems programs of instruction.

(b) For the purpose of work experience education programs in the secondary schools meeting the standards of the California State Plan for Vocational Education, "immediate supervision" of off-campus work training stations means pupil participation in

on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in any such work experience program shall not exceed 125 students per full-time equivalent certificated coordinator. A pupil enrolled in such work experience program shall not be credited with more than one day of attendance in any calendar day, and shall be a full-time student enrolled in regular classes meeting the requirements set forth in Section 11052 or 11055.

(c) For purposes of computing the average daily attendance of a community college district, attendance shall also include student attendance and participation in in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations that conform to all apportionment attendance and course of study requirements otherwise imposed by law; provided that such courses are fully open to the enrollment and participation of the public pursuant to subdivision (2) of Section 5753; and provided further, that prerequisites for such courses shall not be established or construed so as to prevent academically qualified persons not employed by agencies in the criminal justice system from enrolling in and attending such courses.

(d) In the event that certain in-service training courses are restricted to employees of police, fire, corrections, and other criminal justice agencies, attendance for such restricted courses shall not be reported for purposes either of state apportionments or district revenue limits computed pursuant to Sections 20935 and 20937. Notwithstanding the provisions of Section 5753, a community college district which restricts enrollment in such in-service training courses may contract with any public agency to provide compensation for the cost of conducting such courses.

(e) Positive records of student admissions and daily attendance in all in-service training courses in the areas of police, fire, corrections, and other criminal justice system occupations, as described in subdivision (c), shall be maintained by each district and shall be separately reported annually to the Chancellor's office of the California Community Colleges.

(f) For the purposes of the rehabilitative schools, classes, or programs described in Section 10605.1, "immediate supervision" in such schools, classes or programs means pupil participation in such programs wherein the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district. Such programs shall be approved by the Department of Education and certified by the county superintendent of schools.

A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance in any calendar day.

SEC. 12. Section 12103 of the Education Code is amended to read:

12103. The county board of education of each county may establish, by resolution, the following regulation requiring the reporting of various types of severance of attendance of or by any pupil subject to the compulsory education laws of California or of any one or more of the types of severance enumerated in subdivision (a) below and may require such reporting of any or all of the private and public schools of the county:

(a) The administration of each private school and public school district of the county shall, upon the severance of attendance by any pupil subject to the compulsory education laws of California, whether by expulsion, exclusion, exemption, transfer, suspension beyond 10 schooldays, or other reasons, report such severance to the county superintendent of schools in the jurisdiction. The report shall include names, ages, last known address and the reason for each such severance.

(b) It shall be the duty of the county superintendent of such county to examine such reports and draw to the attention of the county board of education and local district board of education any cases in which the interests of the child or the welfare of the state may need further examination.

(c) After preliminary study of available information in cases so referred to it, the county board of education may, on its own action, hold hearings on such cases in the manner provided in Sections 10609 through 10609.4 and with the same powers of final decision as therein provided.

SEC. 12.3. It is the intent of the Legislature, if this bill and Senate Bill No. 182 are both chaptered and become effective January 1, 1976, both bills amend Section 967 of the Education Code, and this bill is chaptered after Senate Bill 182, that the amendments to Section 967 proposed by both bills be given effect and incorporated in Section 967 in the form set forth in Section 2.5 of this act. Therefore, Section 2.5 of this act shall become operative only if this bill and Senate Bill No. 182 are both chaptered and become effective January 1, 1976, both amend Section 967, and this bill is chaptered after Senate Bill No. 182, in which case Section 2 of this act shall not become operative.

SEC. 12.5. It is the intent of the Legislature, if this bill and Senate Bill No. 841 are both chaptered and become effective January 1, 1976, both bills amend Section 11251 of the Education Code, and this bill is chaptered after Senate Bill No. 841, that the amendments to Section 11251 proposed by both bills be given effect and incorporated in Section 11251 in the form set forth in Section 11.5 of this act. Therefore, Section 11.5 of this act shall become operative only if this bill and Senate Bill No. 841 are both chaptered and become effective January 1, 1976, both amend Section 11251, and this bill is chaptered after Senate Bill No. 841, in which case Section 11 of this act shall not become operative.

SEC. 13. The sum of three thousand seven hundred fifty dollars

($3,750) is hereby appropriated from the General Fund to the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act.

CHAPTER 1254

An act to amend Sections 11475.1 and 25505.8 of the Education Code, relating to community colleges.

[Approved by Governor October 1, 1975. Filed with Secretary of State October 1, 1975.]

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

SECTION 1. Section 11475.1 of the Education Code is amended to read:

11475.1. For the purposes of this section a short-term class, exclusive of Sections 11251 and 11484, is any class scheduled for less than a full quarter, semester, or other sessions as approved by the Chancellor of the California Community Colleges to meet the requirements of Section 17551.

Notwithstanding Section 11475, units of average daily attendance of students, including adults as defined in Section 5756, enrolled in credit and noncredit short-term classes qualifying for a state apportionment in the 1974–75, 1975–76, 1976–77, and 1977–78 school years shall be computed by dividing actual class hours of attendance by 525. The attendance of adults as defined in Section 5756 shall be kept separately from all other attendance.

This section shall remain in effect only until July 1, 1978, and is repealed as of that date.

SEC. 2. Section 25505.8 of the Education Code is amended to read:

25505.8. A community college district may admit and shall charge a tuition fee to nonresident students. The district may exempt from all or parts of the fee nonresidents who (a) enroll for six units or less or (b) are both citizens and residents of a foreign country. Any exemptions shall be made with regard to all nonresidents described in (a) or (b) and shall not be made on an individual basis.

A district may, with the approval of the Board of Governors of the California Community Colleges contract with a state, a county contiguous to California, the federal government, a foreign country, or an agency thereof, for payment of all or a part of a nonresident student's tuition fee.

The nonresident tuition fee shall be paid in equal installments at the beginning of each term as determined by the governing board of the district and shall be set by the governing board of each community college district not later than January 1st of each year.

The fee shall represent the amount per student enrolled in the district, which is expended by the district for the current costs of education as defined by the California Accounting Manual for students enrolled in grades 13 and 14.

The district governing board shall establish the nonresident tuition on the basis of one of the following computations: (a) the amount per student enrolled, derived by dividing the current costs expended from funds from all sources during the preceding year by the average daily attendance during the same year in grades 13 and 14, or (b) the statewide average current expenditure per unit of average daily attendance in grades 13 and 14 during the preceding fiscal year. The same fee shall be charged irrespective of the type of class in which the student is enrolled. Any loss in revenue generated by the nonresident tuition fee shall not be offset by additional state funding due to the loss of revenues derived therefrom.

The governing board of each community college district shall also adopt a per-unit tuition fee for nonresidents on less than a full-time basis by dividing the fee for full-time nonresidents by 30 (units) for colleges operating on the semester system, and 45 (units) for colleges operating on the quarter system. The same per-unit rate shall be charged all nonresident students attending any terms or sessions maintained by the community college outside of the instructional year. The rate charged shall be the rate established for the fiscal year in which the term or session ends.

A district shall report annually to the Board of Governors of the California Community Colleges the number of nonresidents enrolled for six units or less, the number of nonresidents enrolled for more than six units, and the total amount of fees collected from each category.

The provisions of this section which require a mandatory fee for nonresidents shall not apply to any district which borders on another state and has fewer than 500 average daily attendance, except that the provisions of this section which require annual reports to be filed with the Board of Governors of the California Community Colleges on the number of such students enrolled shall apply to such districts in the same manner as to any other district.

SEC. 3. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 1255

An act to amend Section 3008 of, to add Sections 3234 and 3752 to, to add and repeal Sections 3234.1 and 3752.1 of, and to repeal Sections 3218, 3234, 3738, and 3752 of, the Public Resources Code, relating to resources.

4345 19 11 290 350

[Approved by Governor October 1, 1975 Filed with
Secretary of State October 1, 1975]

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

SECTION 1. Section 3008 of the Public Resources Code is amended to read:

3008. (a) "Well" means any oil or gas well or well for the discovery of oil or gas, or any well on lands producing or reasonably presumed to contain oil or gas or any well drilled for the purpose of injecting fluids or gas for stimulating oil or gas recovery, repressuring or pressure maintenance of oil or gas reservoirs, or disposing of oilfield waste fluids or any well drilled within or adjacent to an oil or gas pool for the purpose of obtaining water to be used in production stimulation or repressuring operations.

(b) "Prospect well" means any well drilled to extend a field or explore a new, potentially productive reservoir.

SEC. 2. Section 3218 of the Public Resources Code is repealed.

SEC. 3. Section 3234 of the Public Resources Code is repealed

SEC. 4. Section 3234 is added to the Public Resources Code, to read:

3234. (a) Except as otherwise provided in this section, all the records, including production reports, of any owner or operator shall be public records for purposes of the California Public Records Act (commencing with Section 6250 of the Government Code).

Such records shall be public records when filed with the district deputy as required under various sections of this chapter, unless the owner or operator requests limited access. On the written request of the owner or operator, such records shall be open to inspection to those authorized in writing by the owner or operator, to the state officers, and to the director, but shall not become public records until two years from the date of completion of drilling for onshore wells and five years from the date the well is capable of production for offshore wells.

Upon receipt by the supervisor of a written request documenting extenuating circumstances pertaining to a particular well, the supervisor may extend for six months the period of limited access to prospect well records and offshore well records. The total of all such extensions shall not exceed four years from the date of completion of drilling for prospect wells and seven years from the date the well is capable of production for offshore wells, unless a longer period of time is approved by the director after a public hearing.

(b) Notwithstanding the provisions of subdivision (a), the well records for offshore wells shall become public records on the expiration of the lease if such lease expires prior to the period of the limited access resulting from the provisions of subdivision (a).

(c) Production reports filed pursuant to Section 3227 shall be open to inspection to the State Board of Equalization or its duly appointed representatives when making a survey pursuant to Section 1815 of the Revenue and Taxation Code or when valuing state-assessed

property pursuant to Section 751 of the Revenue and Taxation Code, and to the assessor of the county in which a well referred to in Section 3227 is located.

(d) For the purposes of this section, "well records" shall not include experimental logs, tests, or interpretive data not generally available to all operators, as defined by the supervisor by regulation.

SEC. 5. Section 3234.1 is added to the Public Resources Code, to read:

3234.1. Notwithstanding the provisions of Section 3234, no well records shall be open to inspection or made available for copying by anyone other than state officers, the director, and persons authorized in writing by the operator, prior to July 1, 1976.

This section shall remain in effect only until July 1, 1976, and as of that date is repealed.

SEC. 6. Section 3738 of the Public Resources Code is repealed.

SEC. 7. Section 3752 of the Public Resources Code is repealed.

SEC. 8. Section 3752 is added to the Public Resources Code, to read:

3752. (a) Except as otherwise provided in this section, all the records, including production records, of any owner or operator shall be public records for purposes of the California Public Records Act (commencing with Section 6250 of the Government Code).

Such records shall be public records when filed with the district deputy, the supervisor, or the board as required under various sections of this chapter, unless the owner or operator requests limited access. On the written request of the owner or operator, such records shall be open to inspection to those authorized in writing by the owner or operator, to the state officers, and to the board, but shall not become public records until five years from the date of commercial production.

Upon receipt by the supervisor of a written request documenting extenuating circumstances pertaining to a particular well, the supervisor may extend for six months the period of limited access. The total of all such extensions shall not exceed seven years from the date of commercial production, unless a longer period of time is approved by the director after a public hearing.

(b) Production reports filed pursuant to Section 3745 shall be open to inspection to the State Board of Equalization or its duly appointed representative when making a survey pursuant to Section 1815 of the Revenue and Taxation Code or when valuing state-assessed property pursuant to Section 751 of the Revenue and Taxation Code, and to the assessor of the county in which a well referred to in Section 322 is located.

(c) For the purposes of this section, "well records" shall not include experimental logs, tests, or interpretive data not generally available to all operators, as defined by the supervisor by regulation.

SEC. 9. Section 3752.1 is added to the Public Resources Code, to read:

3752.1. Notwithstanding the provisions of Section 3752, no well

records shall be open to inspection or made available for copying by anyone other than state officers, the Geothermal Resources Board, and persons authorized in writing by the operator, prior to July 1, 1976.

This section shall remain in effect only until July 1, 1976, and as of that date is repealed.

CHAPTER 1256

An act to amend Sections 930, 940, 976.5, 977, 978, and 1280 of the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor October 1, 1975. Filed with Secretary of State October 1, 1975.]

I am reducing the appropriation contained in Section 10 of Assembly Bill No 91 from $525,000 to $125,000 by reducing paragraph (a) to reimburse local agencies for costs from $280,000 to $125,000 and by deleting paragraph (b) for reimbursement to the Employment Development Department

The remaining funds will be sufficient to reimburse local agencies for the balance of the fiscal year In addition, state reimbursements to the Employment Development Department will be made from support appropriations of the affected state departments based on experience.

With this reduction, I approve Assembly Bill No. 91

EDMUND G BROWN JR. Governor

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

SECTION 1. Section 930 of the Unemployment Insurance Code is amended to read:

930. (a) "Wages" does not include remuneration in excess of the following amounts paid to an individual by an employer during any calendar year, with respect to employment:

(1) Six thousand dollars ($6,000) for a calendar year whenever the total revenues of the Unemployment Fund are equal to or exceed the total disbursements of the fund for the 12-month period ending on the computation date preceding January 1 of the calendar year.

(2) Seven thousand dollars ($7,000) for a calendar year whenever the total disbursements of the Unemployment Fund exceed total revenues of the fund for the 12-month period ending on the computation date preceding January 1 of the calendar year.

(b) For the purpose of this section, the total revenues shall be subject to the exclusions of the amounts provided by Section 980, and the total disbursements shall be subject to the exclusion of the amounts provided by Section 980.5.

SEC. 2. Section 940 of the Unemployment Insurance Code is amended to read:

940. For the purposes of this section, of Sections 977 and 978 to the extent specified by such sections, and of Sections 1026, 1088, 1280,

1281, 1282, 2652, 2654, 2655, and 2657, "wages" means taxable wages as well as wages which would be taxable except for the limitations on taxable wages provided under Sections 930 and 985.

SEC. 3. Section 976.5 of the Unemployment Insurance Code is amended to read:

976.5. (a) In addition to other contributions required by this division, every employer, except an employer as defined by Section 676, and except as provided in subdivision (b) of this section, shall pay into the Unemployment Fund contributions at the following rate: A rate which shall be based upon the charges and credits to the balancing account during the 24-month period ending upon the computation date immediately preceding the beginning of the calendar year. If as of the computation date the charges to the balancing account are as a percentage of the credits to such account equal to or greater than the percentage in column 1 but less than the percentage in column 2, the rate shall be the figure appearing on the same line in column 3.

Line	Column 1	Column 2	Column 3
1	90%	No limitation	1.0%
2	80%	90%	0.9
3	70%	80%	0.8
4	60%	70%	0.7
5	40%	60%	0.5
6	20%	40%	0.3
7	0%	20%	0.1

(b) In lieu of contributions required by subdivision (a) of this section, an employer, except an employer as defined by Section 676, whose reserve account has not been subject to benefit charges during the period of four complete consecutive calendar quarters ending on the computation date, or whose average base payroll has increased on a computation date 25 percent or more above his average base payroll on the preceding computation date, shall pay into the Unemployment Fund contributions with respect to wages paid for employment at the next lower rate than the rate applicable to other employers for the calendar year under column 3 of subdivision (a) of this section but not less than one-tenth of one percent (0.1%).

(c) Subdivision (b) of this section shall not apply to an employer which has had an election to reimburse the additional cost of benefits to the Unemployment Fund or the cost of benefits paid and charged to his account where such election was in effect for three or more calendar years and has been terminated.

SEC. 4. Section 977 of the Unemployment Insurance Code is amended to read:

977. Whenever the balance in the Unemployment Fund on December 31st of any calendar year is less than 2.5 percent of the wages (as defined by Section 940) in employment subject to this part

paid during the 12-month period ending upon the computation date immediately preceding such December 31st, for which an official tabulation has been completed by the department on or before such December 31st, employers shall pay into the Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the following rates.

If, as of the computation date, the employer's net balance of reserve equals or exceeds that percentage of his average base payroll which appears on any line in column 1 of the following table, but is less than that percentage of his average base payroll which appears on the same line in column 2 of that table, his contribution rate shall be the figure appearing on that same line in column 3 of that table.

	Reserve balance		Contribution rate
Line	Column 1	Column 2	Column 3
1	—10.0% or more		3.9%
2	More than 0.0%	—10.0%	3.7%
3	0.0%	1.0%	3.5%
4	1.0%	2.0%	3.4%
5	2.0%	3.0%	3.3%
6	3.0%	4.0%	3.2%
7	4.0%	5.0%	3.1%
8	5.0%	6.0%	2.9%
9	6.0%	7.0%	2.7%
10	7.0%	8.0%	2.5%
11	8.0%	9.0%	2.3%
12	9.0%	10.0%	2.1%
13	10.0%	11.0%	1.9%
14	11.0%	12.0%	1.7%
15	12.0%	13.0%	1.5%
16	13.0%	14.0%	1.3%
17	14.0%	15.0%	1.1%
18	15.0%	16.0%	0.9%
19	16.0%	17.0%	0.8%
20	17.0%	18.0%	0.7%
21	18.0%	19.0%	0.6%
22	19.0%	20.0%	0.5%
23	20.0% or more		0.4%

SEC. 5. Section 978 of the Unemployment Insurance Code is amended to read:

978. Whenever the balance in the Unemployment Fund on December 31st of any calendar year equals or exceeds 2.5 percent of the wages (as defined by Section 940) in employment subject to this part paid during the 12-month period ending upon the computation date immediately preceding such December 31st, for which an official tabulation has been completed by the department on or before such December 31st, employers shall pay into the

Unemployment Fund contributions for the succeeding calendar year upon all wages with respect to employment at the following rates.

If, as of the computation date, the employer's net balance of reserve equals or exceeds that percentage of his average base payroll which appears on any line in column 1 of the following table, but is less than that percentage of his average base payroll which appears on the same line in column 2 of that table, his contribution rate shall be the figure appearing on that same line in column 3 of that table.

	Reserve balance		Contribution rate
Line	Column 1	Column 2	Column 3
1	—10.0% or more		3.3%
2	More than 0.0%	—10.0%	3.1%
3	0.0%	1.0%	2.9%
4	1.0%	2.0%	2.7%
5	2.0%	3.0%	2.6%
6	3.0%	4.0%	2.5%
7	4.0%	5.0%	2.4%
8	5.0%	6.0%	2.3%
9	6.0%	7.0%	2.2%
10	7.0%	8.0%	2.0%
11	8.0%	9.0%	1.8%
12	9.0%	10.0%	1.6%
13	10.0%	11.0%	1.4%
14	11.0%	12.0%	1.2%
15	12.0%	13.0%	1.0%
16	13.0%	14.0%	0.8%
17	14.0%	15.0%	0.6%
18	15.0%	16.0%	0.4%
19	16.0%	17.0%	0.2%
20	17.0%	100.0% or more	0.0%

SEC. 6. Section 1280 of the Unemployment Insurance Code is amended to read:

1280. An individual's weekly benefit amount is the amount appearing in column B in the following table opposite that wage bracket in column A which contains the amount of wages paid to the individual for employment by employers during the quarter of his base period in which his wages were the highest.

A	B
Amount of wages in highest quarter	Weekly benefit amount
$187.50– 737.99	30
738.00– 765.99	31
766.00– 793.99	32
794.00– 821.99	33
822.00– 849.99	34

850.00– 877.99	35
878.00– 905.99	36
906.00– 933.99	37
934.00– 961.99	38
962.00– 989.99	39
990.00–1,017.99	40
1,018.00–1,045.99	41
1,046.00–1,073.99	42
1,074.00–1,101.99	43
1,102.00–1,129.99	44
1,130.00–1,157.99	45
1,158.00–1,185.99	46
1,186.00–1,213.99	47
1,214.00–1,241.99	48
1,242.00–1,269.99	49
1,270.00–1,297.99	50
1,298.00–1,325.99	51
1,326.00–1,353 99	52
1,354.00–1,381.99	53
1,382.00–1,409.99	54
1,410.00–1,437.99	55
1,438.00–1,467.99	56
1,468.00–1,497.99	57
1,498.00–1,527.99	58
1,528.00–1,557.99	59
1,558.00–1,587.99	60
1,588.00–1,627.99	61
1,628.00–1,667.99	62
1,668.00–1,707.99	63
1,708.00–1,747.99	64
1,748.00–1,787.99	65
1,788.00–1,827.99	66
1,828.00–1,867.99	67
1,868.00–1,907.99	68
1,908.00–1,947.99	69
1,948.00–1,987.99	70
1,988.00–2,027.99	71
2,028.00–2,067.99	72
2,068.00–2,107.99	73
2,108.00–2,147.99	74
2,148.00–2,187.99	75
2,188.00–2,227.99	76
2,228.00–2,267.99	77
2,268.00–2,307.99	78
2,308.00–2,347.99	79
2,348.00–2,387.99	80
2,388.00–2,427.99	81
2,428.00–2,467.99	82
2,468.00–2,507.99	83

2,508.00–2,547.99	84
2,548.00–2,587.99	85
2,588.00–2,627.99	86
2,628.00–2,667.99	87
2,668.00–2,707.99	88
2,708.00–2,747.99	89
2,748.00–2,787.99	90
2,788.00–2,827.99	91
2,828.00–2,867.99	92
2,868.00–2,907.99	93
2,908.00–2,947.99	94
2,948.00–2,987.99	95
2,988.00–3,027.99	96
3,028.00–3,067.99	97
3,068.00–3,107.99	98
3,108.00–3,147.99	99
3,148.00–3,187.99	100
3,188.00–3,227.99	101
3,228.00–3,267.99	102
3,268.00–3,307.99	103
3,308.00–and over	104

SEC. 7. The amendments made by this act to Sections 930, 940, 976.5, 977, and 978 of the Unemployment Insurance Code shall be operative commencing with the rating period of the calendar year 1976.

SEC. 8. The amendments to Section 1280 of the Unemployment Insurance Code made by this act shall be applicable to new claims filed with an effective date beginning on and after January 1, 1976. The provisions of Section 1280 of the Unemployment Insurance Code as in effect prior to the amendments made by this act shall remain applicable to new claims filed with an effective date beginning prior to January 1, 1976.

SEC. 9. No right or cause of action founded upon any provision of law amended by this act, as the provision existed prior to such amendment, shall be abolished or impaired by this act.

SEC. 10. The sum of five hundred twenty-five thousand dollars ($525,000) is hereby appropriated from the General Fund for allocation in accordance with the following schedule:

(a) To the State Controller for allocation and disbursement to local agencies pursuant to Section 2231 of the Revenue and Taxation Code to reimburse such agencies for costs incurred by them pursuant to this act $280,000

(b) To the State Controller for reimbursement to the Employment Development Department for the costs incurred in making payments to state employees required by this act $245,000

CHAPTER 1257

An act to amend Section 40500 of, and to amend, repeal, and add Section 40519 to, the Vehicle Code, relating to offenses.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 40500 of the Vehicle Code is amended to read:

40500. (a) Whenever a person is arrested for any violation of this code not declared to be a felony, or for a violation of an ordinance of a city or county relating to traffic offenses and he is not immediately taken before a magistrate, as provided in this chapter, the arresting officer shall prepare in triplicate a written notice to appear in court or before a person authorized to receive a deposit of bail, containing the name and address of the person, the license number of his vehicle, if any, the name and address, when available, of the registered owner or lessee of the vehicle, the offense charged and the time and place when and where he shall appear.

(b) The Judicial Council shall prescribe the form of the notice to appear.

(c) Nothing in this section shall be construed so as to require the law enforcement agency or the arresting officer issuing the notice to appear to inform any person arrested pursuant to this section of the amount of bail required to be deposited for the offense charged.

SEC. 2. Section 40519 of the Vehicle Code is amended to read:

40519. (a) Any person who has received a written notice to appear for an infraction may, prior to the time at which he is required to appear, make a deposit and declare his intention to plead not guilty to the clerk of the court named in the notice to appear. The deposit shall be in the amount of bail established pursuant to the provisions of Section 1269b of the Penal Code, together with any assessment required by Section 42006 or 42050 of this code, for the offense charged, and shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place scheduled by the clerk for arraignment and for trial, and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. The case shall thereupon be set for arraignment and trial on the same date, unless the defendant requests separate arraignment.

(b) Any person who has received a written notice to appear for an infraction may, prior to the time at which he is required to appear, plead not guilty in writing in lieu of appearing in person. The written plea shall be directed to the court named in the notice to appear and, if mailed, shall be sent by certified or registered mail postmarked not later than five days prior to the day upon which appearance is

required. Such written plea and request to the court shall be accompanied by a deposit of twenty-five dollars ($25) which amount shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place set by the court for trial and to apply toward the payment of fine, if any, prescribed by the court upon conviction. Thereafter, the case shall be conducted in the same manner as if the defendant had appeared in person, had made his plea in open court, and had deposited such sum of twenty-five dollars ($25) as bail. The court or the clerk of the court shall notify the accused of the time and place of trial by first-class mail postmarked at least 10 days prior to the time set for the trial. Any person using this procedure shall be deemed to have waived his right to be tried within the statutory period.

(c) Any person using the procedure set forth in subdivision (a) or (b) shall be deemed to have given his written promise to appear at the time designated by the court for trial, and failure to appear at the trial shall constitute a misdemeanor.

(d) This section shall remain in effect only until July 1, 1976, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1976, deletes or extends such date.

SEC. 3. Section 40519 is added to the Vehicle Code, to read:

40519. (a) Any person who has received a written notice to appear for an infraction may, prior to the time at which he is required to appear, make a deposit and declare his intention to plead not guilty to the clerk of the court named in the notice to appear. The deposit shall be in the amount of bail established pursuant to the provisions of Section 1269b of the Penal Code, together with any assessment required by Section 42006 or 42050 of this code, for the offense charged, and shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place scheduled by the clerk for arraignment and for trial, and to apply toward the payment of any fine or assessment prescribed by the court in the event of conviction. The case shall thereupon be set for arraignment and trial on the same date, unless the defendant requests separate arraignment.

(b) Any person who has received a written notice to appear for an infraction may, prior to the time at which he is required to appear, plead not guilty in writing in lieu of appearing in person. The written plea shall be directed to the court named in the notice to appear and, if mailed, shall be sent by certified or registered mail postmarked not later than five days prior to the day upon which appearance is required. Such written plea and request to the court shall be accompanied by a deposit consisting of the amount of bail established pursuant to the provisions of Section 1269b of the Penal Code, together with any assessment required by Section 42006 or 42050 of this code, for that offense, which amount shall be used for the purpose of guaranteeing the appearance of the defendant at the time and place set by the court for trial and to apply toward the payment of any fine or assessment prescribed by the court in the event of

conviction. Thereafter, the case shall be conducted in the same manner as if the defendant had appeared in person, had made his plea in open court, and had deposited such sum as bail. The court or the clerk of the court shall notify the accused of the time and place of trial by first-class mail postmarked at least 10 days prior to the time set for the trial. Any person using this procedure shall be deemed to have waived his right to be tried within the statutory period.

(c) Any person using the procedure set forth in subdivision (a) or (b) shall be deemed to have given his written promise to appear at the time designated by the court for trial, and failure to appear at the trial shall constitute a misdemeanor.

(d) This section shall become operative on July 1, 1976.

SEC. 4. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1258

An act to add Section 18862 to the Government Code, to amend Section 4011.6 of, and to add Sections 4011.8 and 6055 to the Penal Code, and to amend Section 5328 of, and to add Sections 1756.1, 5352.5, 5403, 5404.1, 5651.1 and 7228 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor October 1, 1975. Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 18862 is added to the Government Code, to read:

18862. The State Personnel Board shall conduct a study on the feasibility of authorizing a salary differential to be paid to psychiatrists, psychologists, and medical doctors who work for the Department of Corrections and the Department of the Youth Authority in order to facilitate recruitment of such personnel and shall report its findings to the Legislature by May 1, 1976.

SEC. 2. Section 4011.6 of the Penal Code is amended to read:

4011.6. In any case in which it appears to the person in charge of a county or city jail or any judge of a court in the county in which the jail is located that a person in custody in such jail may be mentally disordered, he may cause such inmate to be taken to a facility for 72-hour treatment and evaluation pursuant to Section 5150 of the Welfare and Institutions Code and he shall inform the facility in writing which shall be confidential, of the reasons that such person

is being taken to the facility. The local mental health director or his designee may examine the prisoner prior to transfer to a facility for treatment and evaluation. Thereupon, the provisions of Article 1 (commencing with Section 5150), Article 4 (commencing with Section 5250), Article 4.5 (commencing with Section 5260), Article 5 (commencing with Section 5275), Article 6 (commencing with Section 5300), and Article 7 (commencing with Section 5325) of Chapter 2 and Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code shall apply to the prisoner.

Where the court causes the prisoner to be transferred to a 72-hour, facility the court shall forthwith notify the local mental health director or his designee, the prosecuting attorney, and counsel for the prisoner in the criminal proceedings about such transfer. Where the person in charge of the jail causes the transfer of the prisoner to a 72-hour facility the jailer shall immediately notify the local mental health director or his designee and each court within the county where the prisoner has a pending proceeding about such transfer; upon notification by the person in charge of the jail the court shall forthwith notify counsel for the prisoner and the prosecuting attorney in the criminal proceedings about such transfer.

If the prisoner is detained in, or remanded to, a facility pursuant to such articles of the Welfare and Institutions Code, the facility shall transmit a report, which shall be confidential, to the person in charge of the jail or judge of the court who caused the prisoner to be taken to the facility and to the local mental health director or his designee, concerning the condition of the prisoner. A new report shall be transmitted at the end of each period of confinement provided for in such articles, upon conversion to voluntary status, and upon filing of temporary letter of conservatorship.

A prisoner who has been transferred to an inpatient facility pursuant to this section, may convert to voluntary inpatient status without obtaining the consent of the court, the person in charge of the jail, or the local mental health director. At the beginning of such conversion to voluntary status, the person in charge of the facility shall transmit a report to the person in charge of the jail or judge of the court who caused the person to be taken to the facility, counsel for the prisoner, prosecuting attorney, and local mental health director or his designee.

If the prisoner is detained in, or remanded to, a facility pursuant to such articles of the Welfare and Institutions Code, the time passed therein shall count as part of the prisoner's sentence. When the prisoner is so detained or remanded, the person in charge of the jail shall advise the professional person in charge of the facility of the expiration date of the prisoner's sentence. If the prisoner is to be released from the facility before such expiration date, the professional person in charge shall notify the local mental health director or his designee, counsel for the prisoner, the prosecuting attorney, and the person in charge of the jail, who shall send for, take,

and receive the prisoner back into the jail.

A defendant, either charged with or convicted of a criminal offense, may be concurrently subject to the provisions of the Lanterman-Petris-Short Act (Division 5, Part 1, Welfare and Institutions Code).

If a prisoner is detained in a facility pursuant to such articles of the Welfare and Institutions Code and if the person in charge of such facility determines that arraignment or trial would be detrimental to the well-being of the prisoner, the time spent therein shall not be computed in any statutory time requirements for arraignment or trial in any pending criminal proceedings. Otherwise, nothing contained herein shall affect any statutory time requirements for arraignment or trial in any pending criminal proceedings.

SEC. 3. Section 4011.8 is added to the Penal Code, to read:

4011.8. A person in custody who has been charged with or convicted of a criminal offense may make voluntary application for inpatient or outpatient mental health services in accordance with Section 5003 of the Welfare and Institutions Code. If such services require absence from the jail premises, consent from the person in charge of the jail or from any judge of a court in the county in which the jail is located, and from the director of the county mental health program in which services are to be rendered, shall be obtained. The local mental health director or his designee may examine the prisoner prior to transfer from the jail.

Where the court approves voluntary treatment for a jail inmate for whom criminal proceedings are pending, the court shall forthwith notify counsel for the prisoner and the prosecuting attorney about such approval. Where the person in charge of the jail approves voluntary treatment for a prisoner for whom criminal proceedings are pending, the person in charge of the jail shall immediately notify each court within the county where the prisoner has a pending proceeding about such approval; upon notification by the jailer the court shall forthwith notify the prosecuting attorney and counsel for the prisoner in the criminal proceedings about such transfer.

If the prisoner voluntarily obtains treatment in a facility or is placed on outpatient treatment pursuant to Section 5003 of the Welfare and Institutions Code, the time passed therein shall count as part of the prisoner's sentence. When the prisoner is permitted absence from the jail for voluntary treatment, the person in charge of the jail shall advise the professional person in charge of the facility of the expiration date of the prisoner's sentence. If the prisoner is to be released from the facility before such expiration date, the professional person in charge shall notify the local mental health director or his designee, counsel for the prisoner, the prosecuting attorney, and the person in charge of the jail, who shall send for, take, and receive the prisoner back into the jail.

A denial of an application for voluntary mental health services shall be reviewable only by mandamus.

SEC. 4. Section 6055 is added to the Penal Code, to read:

6055. The Department of Corrections and the Department of the Youth Authority may provide time off with pay to security and treatment personnel who take courses approved by the departments on mental health treatment related to their jobs. The departments may also provide financial compensation to pay for the cost of such courses.

SEC. 5. Section 1756.1 is added to the Welfare and Institutions Code, to read:

1756.1. The Director of the Youth Authority shall conduct a study on the feasibility of establishing on a regional basis mental health treatment facilities for mentally disordered persons confined in state correctional schools and on parole therefrom and shall report his findings to the Legislature by March 1, 1976.

SEC. 6. Section 5328 of the Welfare and Institutions Code is amended to read:

5328. All information and records obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed only:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his guardian or conservator must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical responsibility for the patient's care;

(b) When the patient, with the approval of the psychiatrist or licensed psychologist in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled;

(d) If the recipient of services is a minor, ward, or conservatee, and his parent, guardian, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family;

(e) For research, provided that the Director of Health designates by regulation, rules for the conduct of research. Such rules shall

include, but need not be limited to, the requirement that all researchers must sign an oath of confidentiality as follows:

_____
Date

As a condition of doing research concerning persons who have received services from _____ (fill in the facility, agency or person), I, _____, agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

_____
Signed

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of said attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. Such agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

The amendment of subdivision (d) of this section enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

This section shall become operative on the same date as Reorganization Plan No. 1 of 1970 becomes operative.

SEC. 7. Section 5352.5 is added to the Welfare and Institutions Code, to read:

5352.5. Conservatorship proceedings may be initiated for any person committed to a state hospital or local mental health facility or placed on outpatient treatment pursuant to Section 1026 or 1370 of the Penal Code or transferred pursuant to Section 4011.6 of the Penal Code upon recommendation of the medical director of the state hospital, or his designee, or professional person in charge of the local mental health facility, or his designee, or the local mental health director, or his designee, to the conservatorship investigator of the county of residence of the person prior to his admission to the hospital or facility or of the county in which the hospital or facility is located. The initiation of conservatorship proceedings or the existence of a conservatorship shall not affect any pending criminal proceedings.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person convicted of a felony who has been transferred to a state hospital under the jurisdiction of the Department of Health pursuant to Section 2684 of the Penal Code by the recommendation of the superintendent of the state hospital to the conservatorship investigator of the county of residence of the person or of the county in which the state hospital is located.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person committed to the Youth Authority, or on parole from a facility of the Youth Authority, by the Director of the Department of the Youth Authority or his designee, to the conservatorship investigator of the county of residence of such person or of the county in which such facility is situated.

The county mental health program providing conservatorship investigation services and conservatorship case management services for any such persons shall be reimbursed for the expenditures made by it for such services pursuant to the Short-Doyle Act (commencing with Section 5600) at 100 percent of such expenditures. Each county Short-Doyle plan shall include provision for such services in the plan.

SEC. 8. Section 5403 is added to the Welfare and Institutions Code, to read:

5403. The State Department of Health shall undertake a study in five or more counties to determine the extent to which the need for mental health services for mentally disordered inmates of county and city jails and mentally disordered juveniles in juvenile detention facilities is being met. The study shall include a determination of a number of county or city jail inmates and juvenile detainees in the

counties surveyed who are mentally disordered. The department shall report the findings of the study and its recommendations for mental health services for county and city jail inmates and juvenile detainees to the Legislature by March 1, 1976.

The person in charge of each jail or juvenile detention facility included in the study required by this section, each local mental health director and each facility and person providing mental health services to jail inmates, shall cooperate with the department for the purposes of the study. The department shall have full access to any jail or juvenile detention facility or mental health records and information it deems necessary for the purpose of the study. However, the department shall not publish any patient name identifiers.

SEC. 9. Section 5404.1 is added to the Welfare and Institutions Code, to read:

5404.1. The Director of Health shall encourage and promote the establishment of a comprehensive array of community treatment facilities, including halfway houses and secure treatment facilities for the treatment of mentally disordered criminal offenders and juvenile offenders, wards, or parolees.

SEC. 10. Section 5651.1 is added to the Welfare and Institutions Code, to read:

5651.1. The county Short-Doyle plan may include the establishment of mental health treatment programs for mentally disordered jail inmates and juveniles in juvenile detention facilities, including treatment teams in the jails, juvenile detention facilities and secure community treatment facilities capable of handling mentally ill juvenile and criminal offenders.

SEC. 11. Section 7228 is added to the Welfare and Institutions Code, to read:

7228. The State Department of Health shall evaluate each patient committed pursuant to Section 1026 or 1370 of the Penal Code, or Section 6316 of the Welfare and Institutions Code in order to determine whether the patients propensity for dangerous behavior or escape makes it necessary to treat the patient in a secure setting. The department shall treat all Penal Code commitments and mentally disordered sex offenders who do not require a secure treatment setting as near to the patient's community as possible.

CHAPTER 1259

An act to amend Section 4600 of, to add Sections 4601, 4603, 4603.2, and 4603.5 to, and to repeal Sections 4601 and 4603 of, the Labor Code, relating to workers' compensation.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 4600 of the Labor Code is amended to read:

4600. Medical, surgical, chiropractic, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, which is reasonably required to cure or relieve from the effects of the injury shall be provided by the employer. In the case of his neglect or refusal seasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment. After 30 days from the date the injury is reported, the employee may be treated by a physician of his own choice or at a facility of his own choice within a reasonable geographic area.

In accordance with the rules of practice and procedure of the appeals board, the employee, or the dependents of a deceased employee, shall be reimbursed for expenses reasonably, actually, and necessarily incurred for X-rays, laboratory fees, medical reports, and medical testimony to prove a contested claim. The reasonableness of and necessity for incurring such expenses to prove a contested claim shall be determined with respect to the time when such expenses were actually incurred. Expenses of medical testimony shall be presumed reasonable if in conformity with the fee schedule charges provided for impartial medical experts appointed by the administrative director.

Where at the request of the employer, the employer's insurance carrier, the administrative director, the appeals board or a referee, the employee submits to examination by a physician, he shall be entitled to receive in addition to all other benefits herein provided all reasonable expenses of transportation, meals and lodging incident to reporting for such examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to such an examination. "Reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of fourteen cents ($0.14) a mile, plus any bridge tolls. Such mileage and tolls shall be paid to the employee at the time he is given notification of the time and place of the examination.

SEC. 2. Section 4601 of the Labor Code is repealed.

SEC. 3. Section 4601 is added to the Labor Code, to read:

4601. If the employee so requests, the employer shall tender him one change of physicians. Upon request of the employee for a a change of physicians, the maximum amount of time permitted by law for the employer or insurance carrier to provide the employee an alternative physician or, if requested by the employee, a chiropractor, shall be five working days from the date of the request. The employee is entitled, in any serious case, upon request, to the services of a consulting physician or chiropractor of his choice at the expense of the employer. Such treatment shall be at the expense of the employer.

SEC. 4. Section 4603 of the Labor Code is repealed.

SEC. 5. Section 4603 is added to the Labor Code, to read:

4603. If the employer desires a change of physicians or chiropractor, he may petition the administrative director who, upon a showing of good cause by the employer, may order the employer to provide a panel of five physicians, or if requested by the employee, four physicians and one chiropractor competent to treat the particular case, from which the employee must select one.

SEC. 6. Section 4603.2 is added to the Labor Code, to read:

4603.2. Upon selecting a physician pursuant to Section 4600, the employee or physician shall forthwith notify the employer of the name and address of such physician. Such physician shall submit a report to the employer within five days from the date of the initial examination and shall submit periodic reports at such intervals as may be prescribed by rules and regulations adopted by the administrative director. The employer shall make payment for the services of such physician after receipt of the required reports.

SEC 7. Section 4603.5 is added to the Labor Code, to read:

4603.5. The administrative director shall adopt rules pertaining to the format and content of notices required by this article; define reasonable geographic areas for the purposes of Section 4600; specify time limits for all such notices, and responses thereto; and adopt any other rules necessary to make effective the requirements of this article.

Employers shall notify all employees of their rights under this section.

SEC. 8. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

SEC. 9. The Legislative Analyst shall report to the Legislature on or before December 31, 1977, on the net cost of this act to local agencies.

CHAPTER 1260

An act to amend and repeal Section 16851 of, and to add Sections 16801.2, 16803.3, and 16851 to, the Education Code, and to amend and repeal Section 545 of, and to add Section 545 to, the Vehicle Code, relating to schools.

[Approved by Governor October 1, 1975. Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 16801.2 is added to the Education Code, to read:

16801.2. The governing board of any school district may contract for the transportation of matriculated or enrolled adults, or provide transportation to adults in district-owned equipment for educational purposes other than to and from school.

Any district which contracts to provide or provides transportation to adults pursuant to this section may charge adults all or part of the costs of contracting for or providing such transportation services.

SEC. 2. Section 16803.3 is added to the Education Code, to read:

16803.3. When the governing board of any school district provides for the transportation of pupils to and from schools in accordance with the provisions of Section 16801, the governing board of the district may require the parents and guardians of all or some of the pupils transported, to pay a portion of the cost of such transportation in an amount determined by the governing board provided that such district does not qualify to receive reimbursement from the State School Fund for transportation under Article 10 (commencing with Section 18051) of Chapter 3 of Division 14 in the year in which the requirement to pay is made. The amount determined by the board shall be no greater than that paid for transportation on a common carrier or municipally owned transit system by other pupils in the district who do not use the transportation provided by the district. The governing board shall exempt from such charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board. No charge under this section shall be made for the transportation of handicapped children. Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of pupils in the schools.

SEC. 3. Section 16851 of the Education Code is amended to read:

16851. A schoolbus is defined as any motor vehicle while being used for the transportation of any school pupil at or below the 12th-grade level to and from a public or private school or to and from public or private school activities, except the following:

(a) A passenger vehicle designed for and when actually carrying not more than eight persons, including the driver.

(b) A 9-passenger or 10-passenger station wagon when used for the transportation of not more than eight pupils and the driver, other than the regular transportation of pupils to and from a public or private school or the transportation of mentally retarded or physically handicapped pupils.

(c) A motor vehicle of any type carrying only members of the household of the owner thereof.

(d) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned transit system, on scheduled runs and which is available to the general public.

(e) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system,

or by a passenger charter-party carrier and used under a contractual agreement to transport pupils to and from school activities but not used regularly to transport pupils to and from a public or private school.

Notwithstanding any other provisions of this section, the governing board of a district maintaining a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, while it is being used for the transportation of any community college students to and from a public community college or to and from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Superintendent of Public Instruction.

This section shall remain in effect only until January 1, 1977, and as of that date is repealed.

SEC. 4. Section 16851 is added to the Education Code, to read:

16851. A schoolbus is defined as any motor vehicle while being used for the transportation of any school pupil at or below the 12th-grade level to and from a public or private school or to and from public or private school activities, except the following:

(a) A passenger vehicle designed for and when actually carrying not more than eight persons, including the driver.

(b) A 9-passenger or 10-passenger station wagon when used for the transportation of not more than eight pupils and the driver, other than the regular transportation of pupils to and from a public or private school or the transportation of mentally retarded or physically handicapped pupils.

(c) A motor vehicle of any type carrying only members of the household of the owner thereof.

(d) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned transit system, on scheduled runs but not used exclusively for the transportation of school pupils.

(e) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system, or by a passenger charter-party carrier and used under a contractual agreement to transport pupils to and from school activities but not used regularly to transport pupils to and from a public or private school.

Notwithstanding any other provisions of this section, the governing board of a district maintaining a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, while it is being used for the transportation of any community college students to and from a public community college or to and from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Superintendent of Public Instruction.

This section shall become operative on January 1, 1977.

SEC. 5. Section 545 of the Vehicle Code is amended to read:

545. A "schoolbus" is any motor vehicle while being used for the transportation of any school pupil at or below the 12th-grade level to and from a public or private school or to and from public or private school activities, except the following:

(a) A passenger vehicle designed for and when actually carrying not more than eight persons, including the driver.

(b) A 9-passenger or 10-passenger station wagon when used for the transportation of not more than eight pupils and the driver, other than the regular transportation of pupils to and from a public or private school or the transportation of mentally retarded or physically handicapped pupils.

(c) A motor vehicle of any type carrying only members of the household of the owner thereof.

(d) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system, on scheduled runs and which is available to the general public.

(e) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system, or by a passenger charter-party carrier and used under a contractual agreement to transport pupils to and from school activities but not used regularly to transport pupils to and from a public or private school.

Notwithstanding any other provisions of this section, the governing board of a district maintaining a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, while it is being used for the transportation of any community college students to and from a public community college or to and from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Superintendent of Public Instruction.

This section shall remain in effect only until January 1, 1977, and as of that date is repealed.

SEC. 6. Section 545 is added to the Vehicle Code, to read:

545. A "schoolbus" is any motor vehicle while being used for the transportation of any school pupil at or below the 12th-grade level to and from a public or private school or to and from public or private school activities, except the following:

(a) A passenger vehicle designed for and when actually carrying not more than eight persons, including the driver.

(b) A 9-passenger or 10-passenger station wagon when used for the transportation of not more than eight pupils and the driver, other than the regular transportation of pupils to and from a public or private school or the transportation of mentally retarded or physically handicapped pupils.

(c) A motor vehicle of any type carrying only members of the household of the owner thereof.

(d) A motor vehicle operated by a common carrier, or by and

under the exclusive jurisdiction of a publicly owned transit system, on scheduled runs but not used exclusively for the transportation of school pupils.

(e) A motor vehicle operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned transit system, or by a passenger charter-party carrier and used under a contractual agreement to transport pupils to and from school activities but not used regularly to transport pupils to and from a public or private school.

Notwithstanding any other provisions of this section, the governing board of a district maintaining a community college may, by resolution, designate any motor vehicle operated by or for the district, a schoolbus within the meaning of this section, while it is being used for the transportation of any community college students to and from a public community college or to and from public community college activities. The designation shall not be effective until written notification thereof has been filed with the Superintendent of Public Instruction.

This section shall become operative on January 1, 1977.

CHAPTER 1261

An act to add Section 21638.5 to the Business and Professions Code, relating to secondhand dealers.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 21638.5 is added to the Business and Professions Code, to read:

21638.5. Sections 21636, 21637, and 21638, insofar as they apply to holding periods for personal property, are not applicable to personal property pledged to a pawnbroker with regard to the redemption of personal property by the pledger.

CHAPTER 1262

An act to amend Sections 301, 302, 310, 312, 313, 313.5 and 320 of, and to add Sections 307 and 321 to, the Business and Professions Code, relating to Department of Consumer Affairs.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 301 of the Business and Professions Code is amended to read:

301. It is the intent of the Legislature and the purpose of this chapter to promote and protect he interests of the people as consumers. The Legislature finds that vigorous representation and protection of consumer interests are essential to the fair and efficient functioning of a free enterprise market economy. The Legislature declares that government advances the interests of consumers by facilitating the proper functioning of the free enterprise market economy through (a) educating and informing the consumer to insure rational consumer choice in the marketplace; (b) protecting the consumer from the sale of goods and services through the use of deceptive methods, acts, or practices which are inimical to the general welfare of consumers; (c) fostering competition; and (d) promoting effective representation of consumers' interests in all branches and levels of government.

SEC. 2. Section 302 of the Business and Professions Code is amended to read:

302. As used in this chapter, the following terms have the following meanings:

(a) "Department" means the Department of Consumer Affairs.

(b) "Director" means the Director of the Department of Consumer Affairs.

(c) "Consumer" means any individual who seeks or acquires, by purchase or lease, any goods, services, money, or credit for personal, family, or household purposes.

(d) "Person" means an individual, partnership, corporation, association, or other group, however organized.

(e) "Individual" does not include a partnership, corporation, association, or other group, however organized.

(f) "Division" means the Division of Consumer Services.

(g) "Interests of consumers" is limited to the cost, quality, purity, safety, durability, performance, effectiveness, dependability, availability, and adequacy of choice of goods and services offered or furnished to consumers and the adequacy and accuracy of information relating to consumer goods, services, money, or credit (including labeling, packaging, and advertising of contents, qualities, and terms of sales)

SEC. 3. Section 307 is added to the Business and Professions Code, to read:

307. The director may contract for the services of experts and consultants where necessary to carry out the provisions of this chapter and may provide compensation and reimbursement of expenses for such experts and consultants in accordance with state law.

SEC. 4. Section 310 of the Business and Professions Code is amended to read:

310. The director shall have the following powers and it shall be his duty to:

(a) Recommend and propose the enactment of such legislation as necessary to protect and promote the interests of consumers.

(b) Represent the consumer's interests before federal and state legislative hearings and executive commissions.

(c) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of consumers.

(d) Study, investigate, research, and analyze matters affecting the interests of consumers.

(e) Hold public hearings, subpoena witnesses, take testimony, compel the production of books, papers, documents, and other evidence, and call upon other state agencies for information.

(f) Propose and assist in the creation and development of consumer education programs.

(g) Promote ethical standards of conduct for business and consumers and undertake activities to encourage public responsibility in the production, promotion, sale and lease of consumer goods and services.

(h) Advise the Governor and Legislature on all matters affecting the interests of consumers.

(i) Exercise and perform such other functions, powers and duties as may be deemed appropriate to protect and promote the interests of consumers as directed by the Governor or the Legislature.

(j) Maintain contact and liaison with consumer groups in California and nationally.

SEC. 5. Section 312 of the Business and Professions Code is amended to read:

312. The director shall submit to the Governor and the Legislature during the month of December prior to each regular session of the Legislature a full and accurate report of the activities of the department relating to consumer affairs and an evaluation of the consumer programs of each state agency. Such report shall include recommendations, when appropriate, for legislation which will protect and promote the interests of consumers. A copy shall be filed with the Secretary of State.

The required evaluation of the consumer programs of each state agency shall include, but is not limited to, comment with respect to the scope, effectiveness, and efficiency of such programs within each agency as well as deficiencies noted in the coordination, administration, or enforcement of such programs.

The director shall include within the report information regarding his or her experience in obtaining and disseminating information with respect to information available from other departments of the state.

SEC. 6. Section 313 of the Business and Professions Code is amended to read:

313. The director shall provide for the establishment of a comprehensive library of books, documents, studies, and other materials relating to consumers and consumer problems.

SEC. 7. Section 313.5 of the Business and Professions Code is amended to read:

313.5. The director shall periodically publish a bibliography of consumer information available in the department library and elsewhere. Such bibliography shall be sent to subscribers upon payment of a reasonable fee therefor.

SEC. 8. Section 320 of the Business and Professions Code is amended to read:

320. Whenever there is pending before any state commission, regulatory agency, department, or other state agency, or any state or federal court or agency, any matter or proceeding which the director finds may affect substantially the interests of consumers within California, the director, or the Attorney General, may intervene in such matter or proceeding in any appropriate manner to represent the interests of consumers. The director, or any officer or employee designated by the director for that purpose, or the Attorney General, may thereafter present to such agency, court, or department, in conformity with the rules of practice and procedure thereof, such evidence and argument as he shall determine to be necessary, for the effective protection of the interests of consumers.

SEC. 9. Section 321 is added to the Business and Professions Code, to read:

321. Whenever it appears to the director that the interests of the consumers of this state are being damaged, or may be damaged, by any person who engaged in, or intends to engage in, any acts or practices in violation of any law of this state, or any federal law, the director or any officer or employee designated by the director, or the Attorney General, may commence legal proceedings in the appropriate forum to enjoin such acts or practices and may seek other appropriate relief on behalf of such consumers.

SEC. 10. Nothing in Sections 320 and 321 of the Business and Professions Code shall be construed to affect the common law or other statutory powers of the Attorney General.

CHAPTER 1263

An act to amend Section 7046 of, to add Sections 108.1 and 11720 to, and to add Article 2.5 (commencing with Section 11590) to Chapter 1 of Part 3 of Division 2 of, the Insurance Code, and to amend Sections 3351, 3352, 3713, 4453, and 5500.5 of, to add Sections 3354, 4453.1, and 5500.6 to, and to repeal Sections 3354, 3355, 3356, 3358.5, and 5704.5 of, the Labor Code, relating to workers' compensation.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975.]

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

SECTION 1. Section 108.1 is added to the Insurance Code, to read:

108.1. Insurers admitted to transact liability insurance are also deemed to be admitted to transact workers' compensation insurance for the purpose of covering those persons defined as employees by subdivision (d) of Section 3351 of the Labor Code.

SEC. 2. Section 7046 of the Insurance Code is amended to read:

7046. After the commissioner has granted tentative approval of any such application, a county mutual fire insurer that shall meet the financial requirements applicable to other insurers under Article 3 (commencing with Section 699), Chapter 1, Part 2, Division 1, may by the majority vote of those of its policyholders voting at a meeting duly called for the purpose, elect to transform itself into a general mutual insurer as defined in Chapter 4 (commencing with Section 4010) of Part 1, Division 2 and amend its articles of incorporation and bylaws to conform to, cover, and enjoy any or all of the provisions, powers, rights, and privileges of such a mutual insurer, notwithstanding the restrictions or limitations of any other provision of law, including, but not limited to, Section 3602 of the Corporations Code. No such transformed county mutual fire insurer may engage in the business of life, title, mortgage, or mortgage guarantee insurance.

SEC. 3. Article 2.5 (commencing with Section 11590) is added to Chapter 1 of Part 3 of Division 2 of the Insurance Code, to read:

Article 2.5. Personal Liability Insurance Providing Workers' Compensation Coverage for Household Employees

11590. Except as provided in Section 11591 or 11592, no policy providing comprehensive personal liability insurance, or endorsement thereto, may be issued, amended, or renewed in this state on or after January 1, 1977, unless it contains a provision for coverage against liability for the payment of compensation, as defined in Section 3207 of the Labor Code, to any person defined as an employee by subdivision (d) of Section 3351 of the Labor Code. Any such policy in effect on or after January 1, 1977, whether or not actually containing such provisions, shall be construed as if such provisions were embodied therein.

11591. The requirements of Section 11590 shall be inapplicable to any such policy of insurance or endorsement where the services of such employee are in connection with the business pursuits of the insured.

11592. The coverage required by Section 11590 shall be deleted by the insurer upon the written request of the insured, certifying that he or she employs no employee not excluded by Section 3352 of the Labor Code in or about the residence of such person, in which event such deletion shall be binding upon every insured to whom such policy or endorsement provisions apply.

Every insurance agent, broker or solicitor selling or proposing to

sell comprehensive personal liability insurance for personal or household purposes shall, prior to the execution of any sale, inform the insured or prospective insured of the nature of the compensation coverage required by this article, of his right to reject such coverage upon a certification of lack of residential employees, and of his right to execute a rejection form therefor.

11593. The premium charge for the coverage required by Section 11590 shall be separately stated from that charged for other coverages under the policy.

SEC. 3.5. Section 11720 is added to the Insurance Code, to read:

11720. The provisions of this article shall not apply to workers' compensation insurance covering those persons defined as employees by subdivision (d) of Section 3351 of the Labor Code.

SEC. 4. Section 3351 of the Labor Code is amended to read:

3351. "Employee" means every person in the service of an employer under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes:

(a) Aliens and minors.

(b) All elected and appointed paid public officers.

(c) All officers and members of boards of directors of quasi-public or private corporations while rendering actual service for such corporations for pay; provided that, where the officers and directors of any such private corporation are the sole shareholders thereof, the corporation and such officers and directors shall come under the compensation provisions of this division only by election as provided in subdivision (a) of Section 4151.

(d) Any person employed by the owner of a private dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the performance of household domestic service. For the purposes of this subdivision, household domestic service shall include, but not be limited to, the care and supervision of children in a private residence.

SEC. 5. Section 3352 of the Labor Code is amended to read:

3352. "Employee" excludes:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk, deputy sheriff, or deputy constable appointed for his own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his services as such deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him for injury occurring in the course of and arising out of such employment.

(d) Any convict whose labor is used by the State Highway

Commission on state highways or roads.

(e) Any person performing voluntary services at or for a recreational camp, hut or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101 (6) of the Internal Revenue Code, of which he or a member of his family is a member and who receives no compensation for such services other than meals, lodging or transportation.

(f) Any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities.

(g) Any person, other than a regular employee, participating in sports or athletics who receives no compensation for such participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, or other expenses incidental thereto.

SEC. 5.5. Section 3352 of the Labor Code, as amended by Senate Bill No. 548 of the 1975–76 Regular Session, is amended to read:

3352. "Employee" excludes:

(a) Any person defined in subdivision (d) of Section 3351 who is employed by his parent, spouse, or child.

(b) Any person performing services in return for aid or sustenance only, received from any religious, charitable, or relief organization.

(c) Any person holding an appointment as deputy clerk, deputy sheriff, or deputy constable appointed for his own convenience, and who receives no compensation from the county or municipal corporation or from the citizens thereof for his services as such deputy. This exclusion is operative only as to employment by the county or municipal corporation and does not deprive any person so deputized from recourse against a private person employing him for injury occurring in the course of and arising out of such employment.

(d) Any convict whose labor is used by the State Highway Commission on state highways or roads.

(e) Any person performing voluntary services at or for a recreational camp, hut or lodge operated by a nonprofit organization, exempt from federal income tax under Section 101 (6) of the Internal Revenue Code, of which he or a member of his family is a member and who receives no compensation for such services other than meals, lodging or transportation.

(f) Any person performing voluntary service as a ski patrolman who receives no compensation for such services other than meals or lodging or the use of ski tow or ski lift facilities.

(g) Any person employed by a ski lift operator to work at a snow ski area who is relieved of and not performing any prescribed duties, while participating in recreational activities on his own initiative.

(h) Any person, other than a regular employee, participating in sports or athletics who receives no compensation for such participation other than the use of athletic equipment, uniforms, transportation, travel, meals, lodgings, or other expenses incidental

thereto.

SEC. 6. Section 3354 of the Labor Code is repealed.

SEC. 6.5. Section 3354 is added to the Labor Code, to read:

3354. Employers of employees defined by subdivision (d) of Section 3351 shall not be subject to the provisions of Sections 3710, 3710.2, and 3711 for failure to secure the payment of compensation for such employees.

SEC. 7. Section 3355 of the Labor Code is repealed.

SEC. 8. Section 3356 of the Labor Code is repealed.

SEC. 9. Section 3358.5 of the Labor Code is repealed.

SEC. 10. Section 3713 of the Labor Code is amended to read:

3713. Every employer subject to the compensation provisions of this code, except employers of employees defined in subdivision (d) of Section 3351, shall post and keep posted in a conspicuous location at his headquarters or at one of his places of employment, as defined in Division 5 (commencing with Section 6300), a notice which shall state the name of the current compensation insurance carrier of such employer, or when such is the fact, that the employer is self-insured. Failure to keep the notice so conspicuously posted shall constitute a misdemeanor, and shall be prima facie evidence of noninsurance.

SEC. 11. Section 4453 of the Labor Code is amended to read:

4453. Except as provided in Section 4453.1, in computing average annual earnings for the purposes of temporary disability indemnity and permanent total disability indemnity only, the average weekly earnings shall be taken at not less than fifty-two dollars and fifty cents ($52.50) nor more than one hundred seventy-eight dollars and fifty cents ($178.50). In computing average annual earnings for purposes of permanent partial disability indemnity, the average weekly earnings shall be taken at not less than thirty dollars ($30) nor more than one hundred five dollars ($105). Between these limits the average weekly earnings, except as provided in Sections 4456 to 4459, shall be arrived at as follows:

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

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

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

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

SEC. 11.5. Section 4453.1 is added to the Labor Code, to read:

4453.1. In computing average annual earnings for the purposes of temporary disability indemnity, the average weekly earnings for a claimant whose last employment was either (i) as an employee as defined in subdivision (d) of Section 3351, (ii) or as an employee engaged in vending, selling, offering for sale, or delivering directly to the public, any newspaper published at least weekly, shall be taken at not less than the lesser of fifty-two dollars and fifty cents ($52.50), or 1.2 times the employee's actual weekly earnings from all employers, nor more than one hundred seventy-eight dollars and fifty cents ($178.50). Between these limits, the average weekly earnings, except as provided in Sections 4456 to 4459, shall be arrived at as provided in subdivisions (a) through (d), inclusive, of Section 4453.

SEC. 12. Section 5500.5 of the Labor Code is amended to read:

5500.5. (a) Except as otherwise provided in Section 5500.6, liability for occupational disease or cumulative injury shall be limited to those employers who employed the employee during a period of five years immediately preceding either the date of injury, as determined pursuant to Section 5412, or the last date on which the employee was employed in an occupation exposing him to the hazards of such occupational disease or cumulative injury, whichever occurs first. If, based upon all the evidence presented, the appeals board or referee finds the existence of cumulative injury or occupational disease, liability for such cumulative injury or occupational disease shall not be apportioned to prior years except as provided in subdivision (d); however, in determining such liability, evidence of disability due to specific injury, disability due to nonindustrial causes, or disability previously compensated for by way of a findings and award or order approving compromise and release, or a voluntary payment of disability, may be admissible for purposes of apportionment.

(b) Where a claim for compensation benefits is made on account of an occupational disease or cumulative injury which may have arisen out of more than one employment, the application shall state the names and addresses of all employers liable under subdivision (a), the places of employment, and the approximate periods of employment where the employee was exposed to the hazards of the occupational disease or cumulative injury. If the application is not so prepared or omits necessary and proper employers, any interested party, at or prior to the first hearing, may request the appeals board to join as defendant any necessary or proper party. If such request

is made prior to the first hearing on the application, the appeals board shall forthwith join the employer as a party defendant and cause a copy of the application together with a notice of the time and place of hearing to be served upon such omitted employer; provided, such notice can be given within the time specified in this division. If such notice cannot be timely given or if the motion for joinder is made at the time of the first hearing, then the appeals board or referee before whom the hearing is held, if it is found that the omitted employer named is a necessary or proper party, may order a joinder of such party and continue the hearing so that proper notice may be given to the party or parties so joined. Only one continuance shall be allowed for the purpose of joining additional parties. Subsequent to the first hearing the appeals board shall join as a party defendant any additional employer when it appears that such employer is a proper party, but the liability of such employer shall not be determined until supplemental proceedings are instituted.

(c) In any case involving a claim of occupational disease or cumulative injury occurring as a result of more than one employment within the five-year period set forth in subdivision (a), the employee making the claim, or his dependents, may elect to proceed against any one or more of such employers. Where such an election is made, the employee must successfully prove his claim against any one of the employers named, and any award which the appeals board shall issue awarding compensation benefits shall be a joint and several award as against any two or more employers who may be held liable for compensation benefits. If, during the pendency of any claim wherein the employee or his dependents has made an election to proceed against one or more employers, it should appear that there is another proper party not yet joined, such additional party shall be joined as a defendant by the appeals board on the motion of any party in interest, but the liability of such employer shall not be determined until supplemental proceedings are instituted. Any employer joined as a defendant subsequent to the first hearing or subsequent to the election provided herein shall not be entitled to participate in any of the proceedings prior to the appeal board's final decision, nor to any continuance or further proceedings, but may be permitted to ascertain from the employee or his dependents such information as will enable the employer to determine the time, place, and duration of the alleged employment. On supplemental proceedings, however, the right of the employer to full and complete examination or cross-examination shall not be restricted.

(d) If the employment exposing the employee to the hazards of the claimed occupational disease or cumulative injury was for more than five years with the same employer, or its predecessors in interest, the limitation of liability to the last five years of employment as set forth in subdivision (a) shall be inapplicable. Liability in such circumstances shall extend to all insurers who insure the workers' compensation liability of such employer, during the entire period of

the employee's exposure with such employer, or its predecessors in interest. The respective contributions of such insurers shall be in proportion to employment during their respective periods of coverage. As used in this subdivision, "insurer" includes an employer who during any period of the employee's exposure was self-insured or legally uninsured.

The provisions of this subdivision shall expire on July 1, 1986, unless otherwise extended by the Legislature prior to that date.

(e) At any time within one year after the appeals board has made an award for compensation benefits in connection with an occupational disease or cumulative injury, any employer held liable under such award may institute proceedings before the appeals board for the purpose of determining an apportionment of liability or right of contribution. Such a proceeding shall not diminish, restrict, or alter in any way the recovery previously allowed the employee or his dependents, but shall be limited to a determination of the respective contribution rights, interests or liabilities of all the employers joined in the proceeding, either initially or supplementally; provided, however, if the appeals board finds on supplemental proceedings for the purpose of determining an apportionment of liability or of a right of contribution that an employer previously held liable in fact has no liability, it may dismiss such employer and amend its original award in such manner as may be required.

(f) In any proceeding before the appeals board for the purpose of determining an apportionment of liability or of a right of contribution where any employee incurred a disability or death resulting from silicosis in underground metal mining operations, the determination of the respective rights and interests of all of the employers joined in the proceedings either initially or supplementally shall be as follows:

(1) All employers whose underground metal mining operations resulted in a silicotic exposure during the period of the employee's employment in such operations shall be jointly and severally liable for the payment of compensation and of medical, surgical, legal and hospital expense which may be awarded to the employee or his estate or dependents as the result of disability or death resulting from or aggravated by such exposure.

(2) In making its determination in the supplemental proceeding for the purpose of determining an apportionment of liability or of a right of contribution of percentage liabilities of the various employers engaged in underground metal mining operations the appeals board shall consider as a rebuttal presumption that employment in underground work in any mine for a continuous period of more than three calendar months will result in a silicotic exposure for the employee so employed during the period of employment if the underground metal mine was driven or sunk in rock having a composition which will result in dissemination of silica or silicotic dust particles when drilled, blasted or transported.

(g) Any employer shall be entitled to rebut such presumption by showing to the satisfaction of the appeals board, or its referee, that the mining methods used by the employer in the employee's place of employment did not result during his employment in the creation of silica dust in sufficient amount or concentration to constitute a silicotic hazard. Dust counts, competently made, at such intervals and in such locations as meet the requirements of the Division of Industrial Safety for safe working conditions may be received as evidence of the amount and concentration of silica dust in the workings where such counts have been made at the time when they were made. The appeals board may from time to time, as its experience may indicate proper, promulgate orders as to the frequency with which such dust counts shall be taken in different types of workings in order to justify their acceptance as evidence of the existence or nonexistence of a silicotic hazard in the property where they have been taken.

(h) The amendments to this section adopted at the 1959 Regular Session of the Legislature shall operate retroactively, and shall apply retrospectively to any cases pending before the appeals board or courts. From and after the date this section becomes effective no payment shall be made out of the fund used for payment of the additional compensation provided for in Section 4751 of this code, or out of any other state funds, in satisfaction of any liability heretofore incurred or hereafter incurred, except awards which have become final without regard to the continuing jurisdiction of the appeals board on said effective date, and the state and its funds shall be without liability therefor. This paragraph shall not in any way effect a reduction in any benefit conferred or which may be conferred upon any injured employee or his dependents.

SEC. 13. Section 5500.6 is added to the Labor Code, to read:

5500.6. Liability for occupational disease or cumulative injury which results from exposure during employment as an employee defined in subdivision (d) of Section 3351 shall be limited to those employers for whom such employee actually worked during the last day of such employment exposing the employee to the hazards of such occupational disease or cumulative injury, or, if no such employer possessed compensation coverage, the last employer for whom such employee actually worked. If, based upon all the evidence presented, the appeals board or referee finds the existence of cumulative injury or occupational disease, liability for such cumulative injury or occupational disease shall not be apportioned to prior employers. However, in determining such liability, evidence of disability due to specific injury, disability due to non-work-related causes, or disability previously compensated for by way of a findings and award or order approving compromise and release, or a voluntary payment of disability, may be admissible for purposes of apportionment.

SEC. 14. Section 5704 5 of the Labor Code is repealed.

SEC. 15. It is the intent of the Legislature, if this bill and Senate

Bill No. 548 are both chaptered and become effective January 1, 1976, both bills amend Section 3352 of the Labor Code, and this bill is chaptered after Senate Bill No. 548, that Section 3352 of the Labor Code, as amended by Section 1 of Senate Bill No. 548 be further amended on the operative date of this act in the form set forth in Section 5.5 of this act to incorporate the changes in Section 3352 proposed by this bill. Therefore, Section 5.5 of this act shall become operative only if this bill and Senate Bill No. 548 are both chaptered and become effective January 1, 1976, both bills amend Section 3352, and this bill is chaptered after Senate Bill No. 548, in which case Section 5.5 of this act shall become operative on the operative date of this act and Section 5 of this act shall not become operative.

SEC. 16. This act shall become operative January 1, 1977.

CHAPTER 1264

An act to add Sections 2114 and 2115 to the Public Utilities Code, relating to Public Utilities Commission proceedings.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 2114 is added to the Public Utilities Code, to read:

2114. Any public utility on whose behalf any agent or officer thereof who, having taken an oath that he will testify, declare, depose or certify truly before the commission, willfully and contrary to such oath states or submits as true any material matter which he knows to be false, or who testifies, declares, deposes, or certifies under penalty of perjury and willfully states as true any material matter which he knows to be false, is guilty of a felony and shall be punished by a fine not to exceed five hundred thousand dollars ($500,000).

SEC. 2. Section 2115 is added to the Public Utilities Code, to read:

2115. No documents or records of a public utility or person or corporation which purport to be statements of fact shall be admitted into evidence or shall serve as any basis for the testimony of any witness unless such documents or records have been certified under penalty of perjury by the person preparing or in charge of preparing them as being true and correct, unless the person preparing them is dead or has been declared incompetent, in which case any other person having knowledge of such statements of fact may certify such records. If certification pursuant to this section is not possible for any reason, the documents or records shall not be admitted into evidence unless admissible under the Evidence Code.

This section shall not apply to any documents not prepared,

directly or indirectly by, or under the supervision or direction of, the public utility or person or corporation offering such documents into evidence.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes in laws relating to crimes and infractions may cause both increased and decreased costs to local government entities and school districts which, in the aggregate, do not result in significant identifiable cost changes.

CHAPTER 1265

An act to amend Sections 3516 and 3521 of, and to add Section 3516.5 to, the Business and Professions Code, relating to physician's assistants and making an appropriation therefor.

[Approved by Governor October 1, 1975. Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 3516 of the Business and Professions Code, as added by Chapter 634 of the Statutes of 1975, is amended to read:

3516. Notwithstanding any other provision of law, any physician assistant certified by the committee shall be eligible for employment by any physician approved by the board to supervise physician's assistants, except that:

(a) No physician shall supervise more than two physician's assistants, except as provided in Section 3516.5, and

(b) The board may restrict physicians to supervising specific types of physician's assistants including, but not limited to, restricting physicians from supervising physician's assistants outside of the physician's field of specialty.

SEC. 2. Section 3516.5 is added to the Business and Professions Code, to read:

3516.5. (a) Notwithstanding any other provision of law and in accordance with regulations established by the board, the director of emergency care services in a hospital with an approved program for the training of emergency care physician assistants, may apply to the board for authorization under which such director may grant approval for emergency care physicians on the staff of such hospital to supervise emergency care physician assistants.

(b) Such application shall encompass all supervising physicians employed in such service.

(c) Nothing in this section shall be construed to authorize any one emergency care physician while on duty to supervise more than two

physician assistants at any one time.

(d) A violation of this section by the director of emergency care services in a hospital with an approved program for the training of emergency care physician's assistants constitutes unprofessional conduct within the meaning of this chapter.

Any violation of this section shall be grounds for suspension of the approval of the director and hospital from further participation under this chapter.

SEC. 3. Section 3521 of the Business and Professions Code, as added by Chapter 634 of the Statutes of 1975, is amended to read:

3521. The fees to be paid by applicants under this chapter are as follows:

(a) Each physician desiring to supervise a physician's assistant shall file a separate application. Except as provided in subdivision (m) application fee of ten dollars ($10) shall be charged to each physician applicant for each application.

(b) Except as provided in subdivision (m) approval fee of fifty dollars ($50) shall be charged to each physician upon approval of an application to supervise physicians' assistants.

(c) The board shall renew approval to supervise physicians' assistants upon application for such renewal, as provided in Section 3522, and a fee of twenty-five dollars ($25) shall be paid for such renewal.

(d) An application fee of fifty dollars ($50) shall be charged to each applicant seeking program approval by the committee.

(e) An initial fee of five hundred dollars ($500) shall be charged to each program upon approval of such program.

(f) A reinspection fee for approved programs shall be one hundred dollars ($100).

(g) An application fee of ten dollars ($10) shall be charged to all physician's assistant applicants.

(h) An examination fee not to exceed fifty dollars ($50) shall be charged each physician's assistant for each certfication examination.

(i) The initial certification fee for a physician's assistant shall be twenty dollars ($20).

(j) A physician's assistant certification renewal fee shall be twenty dollars ($20).

(k) The delinquency fee is ten dollars ($10).

(*l*) If any approval or certification will expire less than one year after its issuance, then the initial approval or certification fee shall be in an amount equal to 50 percent of the initial approval or certification fee in effect on the last regular renewal date before the date on which the approval or certification is issued.

(m) Each director of an emergency care service in a hospital with an approved program for the training of emergency care physician's assistants shall file an application and approval fee of one hundred dollars ($100). Approval shall be limited to one year after which such director shall renew the approval and pay a renewal fee of twenty-five dollars ($25). The fee provided in this subdivision shall

be exclusive and in lieu of any other fee provided in this section.

CHAPTER 1266

An act to amend Sections 637, 661, and 727 of, to add Sections 707, 707.1, 707.2, 707.3, and 707.4 to, and to repeal Section 707 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 637 of the Welfare and Institutions Code is amended to read:

637. When a hearing is held under the provisions of this article and no parent or guardian of such minor is present and no parent or guardian has had actual notice of the hearing, a parent or guardian of such minor may file his affidavit setting forth such facts with the clerk of the juvenile court and the clerk shall immediately set the matter for rehearing at a time within 24 hours, excluding Sundays and nonjudicial days from the filing of the affidavit. Upon the rehearing, the court shall proceed in the same manner as upon the original hearing.

If the minor or, if the minor is represented by an attorney, the minor's attorney, requests evidence of the prima facie case, a rehearing shall be held within three judicial days to consider evidence of the prima facie case. If the prima facie case is not established, the minor shall be released from detention.

When the court ascertains that the rehearing cannot be held within three judicial days because of the unavailability of a witness, a reasonable continuance may be granted for a period not to exceed five judicial days.

SEC. 2. Section 661 of the Welfare and Institutions Code is amended to read:

661. In addition to the notice provided in Sections 658 and 659, the juvenile court may issue its citation directing any parent or guardian of the person concerning whom a petition has been filed to appear at the time and place set for any hearing under the provisions of this chapter, including a hearing under the provisions of Section 563, and directing any person having custody or control of the minor concerning whom the petition has been filed to bring such minor with him. The notice shall in addition state that a parent or guardian may be required to participate in a counseling program with the minor concerning whom the petition has been filed. Personal service of such citation shall be made at least 24 hours before the time stated therein for such appearance.

SEC. 3. Section 707 of the Welfare and Institutions Code is

repealed.

SEC. 4. Section 707 is added to the Welfare and Institutions Code, to read:

707. In any case in which a minor is alleged to be a person described in Section 602 by reason of the violation, when he was 16 years of age or older, of any criminal statute or ordinance, upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for unfitness. Following submission and consideration of the report, and of any other relevant evidence which the petitioner or the minor may wish to submit the juvenile court may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment and training program available through the facilities of the juvenile court, based upon an evaluation of the following criteria:

(a) The degree of criminal sophistication exhibited by the minor

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

(c) The minor's previous delinquent history.

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

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

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

SEC. 5. Section 707.1 is added to the Welfare and Institutions Code, to read·

707.1. If the minor is declared not a fit and proper subject to be dealt with under the juvenile court law, the district attorney or other appropriate prosecuting officer shall acquire the authority to file an accusatory pleading against the minor in a court of criminal jurisdiction. The case shall proceed from that point according to the laws applicable to a criminal case, provided, that unless the juvenile court specifically orders the individual minor delivered to the custody of the sheriff upon a finding that the safety of the public or of the inmates of the juvenile hall cannot be otherwise protected, the minor, if detained, shall remain in the juvenile hall pending final disposition by the criminal court. If a prosecution has been commenced in another court but has been suspended while juvenile court proceedings are being held, it shall be ordered that the proceedings upon such prosecution resume.

SEC. 6. Section 707.2 is added to the Welfare and Institutions Code, to read:

707.2. Except as provided in Sections 1731.5 and 1737.1, no minor who was under the age of 18 years when he committed any criminal offense, and who has been found not a fit and proper subject to be dealt with under the juvenile court law pursuant to Section 707, shall be sentenced to the state prison, except upon petition filed pursuant to Article 5 (commencing with Section 1780) of Division 2.5. Of those persons eligible for commitment to the Youth Authority, prior to sentence the court may remand such persons to the custody of the California Youth Authority not to exceed 90 days for the purpose of evaluation and report.

With the exception of past or present wards of the authority, no person shall be returned to the court by the authority unless he has been remanded to the Youth Authority for diagnosis and report, and personally evaluated.

SEC. 7. Section 707.3 is added to the Welfare and Institutions Code, to read:

707.3. Whenever any charge, the alleged circumstances and gravity of which were relied upon pursuant to Section 707, is dismissed or found untrue by the court of criminal jurisdiction, the minor shall be returned to juvenile court for trial or disposition of any lesser charge which may remain outstanding against him if the minor consents to being returned to the juvenile court. In any other case, the minor may be returned to juvenile court for the trial or disposition of any charge pending against him if he consents to being returned to the juvenile court. If jeopardy has attached in the criminal proceeding, the case shall not be returned until a verdict or finding has been made as to each pending charge.

SEC. 8. Section 707.4 is added to the Welfare and Institutions Code, to read:

707.4. In any case arising under this article in which there is no conviction in the criminal court and the minor is not returned to juvenile court pursuant to Section 707.3, the clerk of the criminal court shall report such disposition to the juvenile court, to the probation department, to the law enforcement agency which arrested the minor for the offense which resulted in his remand to criminal court, and to the Department of Justice. Unless the minor has had a prior conviction in a criminal court, the clerk of the criminal court shall deliver to the clerk of the juvenile court all copies of the minor's record in criminal court and shall obliterate the minor's name from any index or minute book maintained in the criminal court. The clerk of the juvenile court shall maintain the minor's criminal court record as provided by Article 13 (commencing with Section 825) of this chapter until such time as the juvenile court may issue an order that they be sealed pursuant to Section 781.

SEC. 9. Section 727 of the Welfare and Institutions Code is amended to read:

727. When a minor is adjudged a dependent child of the court, on the ground that he is a person described by Section 600, the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of such minor, including medical treatment, subject to further order of the court.

The court may order the care, custody, control and conduct of such minor to be under the supervision of the probation officer or may commit such minor to the care, custody and control of:

(a) Some reputable person of good moral character who consents to such commitment.

(b) Some association, society, or corporation embracing within its objects the purpose of caring for such minors, with the consent of such association, society, or corporation.

(c) The probation officer, to be boarded out or placed in some suitable family home or suitable private institution, subject to the requirements of Chapter 1 (commencing with Section 16000) of Part 4 of Division 9; provided, however, that pending action by the State Department of Health, the placement of a minor in a home certified as meeting minimum standards for boarding homes by the probation officer shall be legal for all purposes.

(d) Any other public agency organized to provide care for needy or neglected children.

When a minor is adjudged a dependent child of the court, on the ground that he is a person described by Section 600 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required, and may be ordered, to participate in a counseling program to be provided by an appropriate agency designated by the court. When a minor is adjudged a dependent child of the court on the ground that he is a person described by subdivision (d) of Section 600 and the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian shall be required to participate in a counseling program to be provided by an appropriate agency, designated by the court.

When a minor has been adjudged a ward of the court on the ground that he is a person described in Section 601 or 602 and the court finds that notice has been given in accordance with Section 661, and when the court orders that a parent or guardian shall retain custody of such minor subject to the supervision of the probation officer, the parent or guardian may be required to participate with such minor in a counseling program to be provided by an appropriate agency designated by the court.

SEC. 10. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to nor any appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden to local government.

CHAPTER 1267

An act to amend Sections 1000, 1000.1, 1000.2, and 1000.4 of, to add Section 1000.5 to, and to repeal and add Section 1000.3 of, the Penal Code, relating to special proceedings in narcotics and drug abuse cases.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 1000 of the Penal Code is amended to read:

1000. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for violation of Section 11350, 11357, 11364, 11365, 11377, or 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4230 of the Business and Professions Code, and it appears to the district attorney that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged divertible offense.

(2) The offense charged did not involve a crime of violence or threatened violence.

(3) There is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of the sections listed in this subdivision.

(4) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(5) The defendant's record does not indicate that he has been diverted pursuant to this chapter within five years prior to the alleged commission of the charged divertible offense.

(6) The defendant has no prior felony conviction within five years prior to the alleged commission of the charged divertible offense.

(b) The district attorney shall review his file to determine whether or not paragraphs (1) to (6), inclusive, of subdivision (a) are applicable to the defendant. If the defendant is found ineligible, the district attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his attorney.

SEC. 2. Section 1000.1 of the Penal Code is amended to read:

1000.1. (a) If the district attorney determines that this chapter may be applicable to the defendant, he shall advise the defendant

and his attorney in writing of such determination. This notification shall include:

(1) A full description of the procedures of diversionary investigation.

(2) A general explanation of the roles and authorities of the probation department, the district attorney, the community program, and the court in the diversion process.

(3) A clear statement that the court may decide in a hearing not to divert the defendant and that he may have to stand trial for the alleged offense.

(4) A clear statement that should the defendant fail in meeting the terms of his diversion, or should he be convicted of a misdemeanor which reflects the divertee's propensity for violence, or should the divertee be convicted of any felony, he may be required, after a court hearing, to stand trial for the original alleged offense.

(5) An explanation of criminal record retention and disposition resulting from participation in the diversion and the divertee's rights relative to answering questions about his arrest and diversion following successful completion of the diversion program.

(b) If the defendant consents and waives his right to a speedy trial the district attorney shall refer the case to the probation department. The probation department shall make an investigation and take into consideration the defendant's age, employment and service records, educational background, community and family ties, prior controlled substance use, treatment history, if any, demonstrable motivation and other mitigating factors in determining whether the defendant is a person who would be benefited by education, treatment, or rehabilitation. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendation to the court.

(c) No statement, or any information procured therefrom, made by the defendant to any probation officer or drug treatment worker, which is made during the course of any investigation conducted by the probation department or drug treatment program pursuant to subdivision (b), and prior to the reporting of the probation department's findings and recommendations to the court, shall be admissible in any action or proceeding brought subsequent to the investigation.

No statement, or any information procured therefrom, with respect to the specific offense with which the defendant is charged, which is made to any probation officer or drug program worker subsequent to the granting of diversion, shall be admissible in any action or proceeding.

In the event that diversion is either denied, or is subsequently revoked once it has been granted, neither the probation investigation nor statements or information divulged during that

investigation shall be used in any sentencing procedures.

SEC. 3. Section 1000.2 of the Penal Code is amended to read:

1000.2. The court shall hold a hearing and, after consideration of the probation department's report and any other information considered by the court to be relevant to its decision, shall determine if the defendant consents to further proceedings under this chapter and waives his right to a speedy trial and if the defendant should be diverted and referred for education, treatment, or rehabilitation. If the court does not deem the defendant a person who would be benefited by diversion, or if the defendant does not consent to participate, the proceedings shall continue as in any other case.

At such time that a defendant's case is diverted, any bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of the defendant shall be exonerated, and the court shall enter an order so directing.

The period during which the further criminal proceedings against the defendant may be diverted shall be for no less than six months nor longer than two years. Progress reports shall be filed by the probation department with the court not less than every six months.

SEC. 4. Section 1000.3 of the Penal Code is repealed.

SEC. 5. Section 1000.3 is added to the Penal Code, to read:

1000.3. If it appears to the probation department that the divertee is performing unsatisfactorily in the assigned program, or that the divertee is not benefiting from education, treatment, or rehabilitation, or that the divertee is convicted of a misdemeanor which reflects the divertee's propensity for violence, or if the divertee is convicted of a felony, after notice to the divertee, the court shall hold a hearing to determine whether the criminal proceedings should be reinstituted. If the court finds that the divertee is not performing satisfactorily in the assigned program, or that the divertee is not benefiting from diversion, or the court finds that the divertee has been convicted of a crime as indicated above, the criminal case shall be referred back to the court for resumption of the criminal proceedings. If the divertee has performed satisfactorily during the period of diversion, at the end of the period of diversion, the criminal charges shall be dismissed.

SEC. 6. Section 1000.4 of the Penal Code is amended to read:

1000.4. This chapter shall remain in effect until January 1, 1979, and on such date is repealed.

SEC. 7. Section 1000.5 is added to the Penal Code, to read:

1000.5. Any record filed with the Department of Justice shall indicate the disposition in those cases diverted pursuant to this chapter. Upon successful completion of a diversion program the arrest upon which the diversion was based shall be deemed to have never occurred. The divertee may indicate in response to any question concerning his prior criminal record that he was not arrested or diverted for such offense. A record pertaining to an arrest resulting in successful completion of a diversion program shall not, without the divertee's consent, be used in any way which could result

in the denial of any employment, benefit, license, or certificate.

SEC. 8. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local governmental entities by this act are such that related costs are incurred as a part of their normal operating procedures.

CHAPTER 1268

An act to amend Section 16120 of, and to add Section 650.5 to, the Welfare and Institutions Code, relating to children.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975.]

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

SECTION 1. Section 650.5 is added to the Welfare and Institutions Code, to read:

650.5. For the purposes of Child Abuse Prevention and Treatment Act grants to states (Public Law 93-247), in all cases in which there is filed a petition based upon alleged neglect or abuse of the minor, or in which a prosecution is initiated under the Penal Code arising from neglect or abuse of the minor, the probation officer or a social worker who files a petition under this chapter shall be the guardian ad litem to represent the interests of the minor in proceedings under this chapter, unless the court shall appoint another adult as guardian ad litem. No bond shall be required from any guardian ad litem acting under this section.

SEC. 2. Section 16120 of the Welfare and Institutions Code is amended to read:

16120. (a) The adoption fees may be waived for all adoptive parents as necessary to provide adoptive families for hard-to-place children. There may be paid for a period not to exceed five years an amount of financial assistance not more than the amount that would be paid for foster care for the child if the placement for adoption had not taken place. Any substantial change in financial circumstances or need shall be reported by a parent to the licensed adoption agency or department in accordance with regulations adopted by the department. The Director of Finance is authorized to transfer funds to a special account for use by the department to provide the in-lieu foster care payments as provided by this section. Such transfer of funds shall not exceed the amount of the estimated reduction in foster care payments which will result from the placement of hard-to-place children in adoptive homes. The county share of the cost of in-lieu foster care payments to adoptive parents shall be paid from county funds. The county responsible for the care of the child

in a foster home is responsible for the payment provided for by this section in adoptive placements arranged by the department or any licensed adoption agency and in cases in which a child receiving aid to families with dependent children in a foster home is adopted by his foster parents and the department or designated adoption agency joins in the petition for adoption.

(b) Prior to the end of the initial period prescribed in subdivision (a), if there is a continuing need, related to a chronic health condition of the child which necessitated the initial financial assistance, a parent may petition the department or the designated licensed adoption agency to continue financial assistance. The amount of financial assistance and the time period for which it may be given, shall be determined by the department or the agency but shall not exceed the age of majority of the child. Prior to the expiration of the extension period, if there is a continuing need, a parent may repetition the department or the designated licensed adoption agency for a new period of termination. The department or the agency shall make its determination regarding the financial ability of the parents to meet the continuing medical needs of the child, related to the child's physical condition at the time of adoption, taking into consideration community resources.

SEC. 3. The provisions of this act amending Section 16120 of the Welfare and Institutions Code shall apply to all hard-to-place children who were adopted either prior to the operative date of this act or on or after the operative date of this act under the aid for adoption program.

CHAPTER 1269

An act to add Article 10.4 (commencing with Section 6268) to Chapter 3 of Division 9 of, and to repeal Article 10.4 (commencing with Section 6268) of, Chapter 6 of Division 6 of, and to repeal Chapter 4 (commencing with Section 45060) of Division 29 of, the Education Code, relating to public education, and making an appropriation therefor.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975.]

I am reducing the appropriation contained in Section 5 of Assembly Bill No 1821 from $3,100,000 to $1,850,000 by reducing the appropriation in subsection (b) from $2,500,000 to $1,250,000

I believe the remaining funds are sufficient to carry out the purpose of the bill recognizing that all local school districts will be participating and should provide assistance from existing staffs in implementing the provisions of the bill

With this reduction, I approve Assembly Bill No 1821

Sincerely,

EDMUND G BROWN JR , Governor

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

SECTION 1. Article 10.4 (commencing with Section 6268) of Chapter 6 of Division 6 of the Education Code is repealed.

SEC. 2. Article 10.4 (commencing with Section 6268) is added to Chapter 6 of Division 6 of the Education Code, to read:

Article 10.4. Regional Adult and Vocational Education Councils

6268. There shall be created within the state, a number of regional adult and vocational education councils, which shall have boundaries as determined by local school districts, and approved by the Superintendent of Public Instruction and the Chancellor of the California Community Colleges. Regional boundaries shall be coterminous with the boundaries of community college districts, and a region may consist of one or more adjacent community college districts. The superintendent and chancellor shall jointly publish guidelines for application by school districts and community college districts for the formation of regional adult and vocational councils.

6268.1. By June 30, 1976, each community college district, high school district, unified school district, and county office of education shall be a participant in a regional adult and vocational education council.

6268.2. Notwithstanding any other provision of law, existing adult continuing education coordinating councils with an average daily attendance of over 700,000 or having boundaries which are coterminous with those of a city and county, shall be designated regional adult and vocational education councils and all agreements, as to members, meetings, delineation of function, shall continue in force; and such councils shall comply with all other provisions of this article.

6268.3. To assure an orderly transition, the Superintendent of Public Instruction and Chancellor of the California Community Colleges shall prescribe and publish regulations for regional adult and vocational education councils within 90 days of the operative date of this article. Such regulations shall include procedures for nominating persons for election to membership on a regional adult and vocational council.

6268.4. Each regional adult and vocational education council, shall be composed of 11 members, as follows:

(a) Four representatives of high school or unified districts within the council boundaries, selected by a plurality of the votes cast by the governing boards of such districts. Each district governing board shall have one vote in the selection of each council member. In any instance where the region encompasses five or more unified or high school districts, selection of representatives shall be in accordance with the regulations established under Section 6268.3.

(b) Four representatives of the community college district or districts within the council boundaries, selected by the governing

board or boards of such district or districts.

(c) A representative of a county office of education selected by the governing board. In any instance where the region spans portions of two or more counties, the governing board of the larger county by population shall make the selection.

(d) A representative of a prime sponsor under the Federal Comprehensive Employment and Training Act of 1973, or his designee.

(e) A representative of a private postsecondary educational institution selected by the administrators of the private postsecondary educational institutions in the region. Each private postsecondary educational institution shall have one vote in the election of the representative.

Members of the council shall serve terms of two years. Vacancies shall be filled by the appointing power for the remainder of the term of the vacant position.

6268.5. The regional adult and vocational education council shall appoint a vocational and continuing education advisory committee to develop recommendations on the existing program, provide liaison between the programs and potential employers, and assist in the development of a plan for the short-term improvement of vocational and continuing education

The committee shall be composed of not more than 18 members, consisting of single-member representation from each of the following agencies:

(a) Regional occupational centers and regional occupational programs.

(b) A state university or college or campus of the University of California.

(c) A field office of the Employment Development Department.

(d) One or more representatives from each of the following categories:

(1) Handicapped;

(2) Disadvantaged;

(3) Teachers;

(4) Business and industry;

(5) Labor, the Joint Apprenticeship Committee, and labor management;

(6) Any significant racial or ethnic minority, or both, in the region; and

(7) Students.

Each member of an advisory committee shall serve a term of three years. Vacancies shall be filled by the appointing power for the remainder of the term of the vacant position.

6268.6. The regional adult and vocational education council may retain staff to assist the council.

6268.7. Each regional adult and vocational education council shall meet and review:

(a) Adult continuing education plans and offerings delineated

under Sections 45040, 45041, 45042, 45043, 45044 and 45045;

(b) Regional occupational programs and centers plans and offerings under Section 7450;

(c) Plans of a community college district or unified school district to change a course offered pursuant to Section 6321 to a course for which the district would receive state apportionments.

(d) Plans of a community college district to change a course offered as adult education to a regular graded course.

(e) All plans required to be submitted by Comprehensive Employment Training Act prime sponsors to either the State Board of Education or the California Manpower Services Council.

6268.8. Each regional adult and vocational education council shall make recommendations to the respective boards, in order to eliminate unnecessary duplication of offerings and to recommend the appropriate level of instruction for new offerings. Each council shall submit to the Chancellor of the California Community Colleges, the Superintendent of Public Instruction and the California Postsecondary Education Commission the following:

(a) A delineation of function agreement which shall have been approved by the respective boards and which shall include a mutual agreement or agreements covering Sections 45040, 45041, 45042, 45043, and 45044, to be submitted within one year of the council's establishment.

(b) An articulation agreement between the respective boards, to be submitted within one year of the council's establishment.

6268.9. Each regional adult and vocational education council shall recommend plans and offerings reviewed pursuant to Section 6268.7 for approval for state apportionments by the Superintendent of Public Instruction and the Chancellor of the California Community Colleges, respectively. A recommendation for approval shall be agreed to by a majority of the members of the regional adult and vocational education council.

The superintendent and chancellor shall jointly promulgate regulations regarding criteria to be used by each council in reviewing courses and making recommendations for approval or disapproval for state apportionments. No course shall be recommended for approval by a council if the council determines it to be an unnecessary duplication. Final course approval for eligibility for apportionments shall be the responsibility of the superintendent and the chancellor, respectively.

Any affected district may appeal a decision of a regional adult and vocational education council. An appeal shall document the reasons for the appeal and shall be filed within 30 days of the decision of the council. The district may appeal to the Chancellor of the California Community Colleges, in the case of a community college district, or the Superintendent of Public Instruction, in the case of any other school district, within 30 days of the decision of the council. The chancellor or superintendent, as the case may be, shall notify the district and the respective council of his decision within 30 days of

receiving the appeal.

The appellant district shall send a copy of any appeal filed with the Chancellor of the California Community Colleges or the Superintendent of Public Instruction to the California Postsecondary Education Commission.

6268.10. (a) Unnecessary duplication of courses shall be deemed to have occurred when two local education agencies or programs offer the same vocational or adult course to the same type of student population using similar operational characteristics as to prerequisites, unless one agency reports that it cannot meet the needs of all students requiring such services.

(b) Unnecessary duplication of services shall be deemed to have occurred when a local educational agency or program is opened to adults for the first time and draws students from existing approved adult education programs, without mutual agreement, under Section 45026.

6268.11. Each regional adult and vocational education council shall, with the assistance of the advisory committee, develop a plan for the short-term improvement of vocational and continuing education, which includes a needs assessment of skills in demand to be determined from regional analysis. Subject to legislative appropriations therefor, a manpower management information system shall also be utilized in the development of plans.

Each regional adult and vocational education council shall annually file, on or before each June 30, a plan with the State Board of Education, the Board of Governors of the California Community Colleges, the affected district governing boards and regional occupational center and program, the California Advisory Council on Vocational Education and Technical Training, and the California Postsecondary Commission, for the short-term improvement of vocational and continuing education programs.

6268.12. Each regional adult and vocational education council shall meet on a regular basis and no less than once every two months.

6268.13. Each regional adult and vocational education council shall annually file, on or before each June 30, a report of its activities with the State Board of Education, the Board of Governors of the California Community Colleges, the California Postsecondary Education Commission, and affected district governing boards and regional occupational centers and programs.

6268.15. The Superintendent of Public Instruction and Chancellor of the California Community Colleges shall provide information relative to duplication for the use of the regional adult and vocational education council, and may prescribe further regulations to prevent unnecessary duplication, facilitate organization, reporting procedures and to insure public input and access to all decisions by the regional adult and vocational education councils.

6268.16. The Chancellor of the California Community Colleges and the Superintendent of Public Instruction shall each submit to the

Legislature by August 1, 1976, a report regarding the establishment and operation of regional adult and vocational educational councils. The Legislative Analyst shall analyze the effectiveness of the regional adult and vocational education councils one year after the effective date of this article, and shall report thereon to the Legislature.

SEC. 3. Chapter 4 (commencing with Section 45060) of Division 29 of the Education Code is repealed.

SEC. 5. There is hereby appropriated from the General Fund in the State Treasury for the costs of state administration, assistance and evaluation as provided in Article 10.4 (commencing with Section 6268) of Chapter 6 of Division 6 of the Education Code, the sum of three million one hundred thousand dollars ($3,100,000), to be allocated as set forth below:

(a) To the Department of Education—	
(1) For fiscal year 1975–76	$125,000.
(2) For fiscal year 1976–77	$250,000.
(b) To the Department of Education and the Chancellor's Office of the California Community Colleges, jointly, for the support of regional adult and vocational education councils, with not to exceed thirty-five thousand dollars ($35,000) to be apportioned to any one such council	$2,500,000.
(c) To the Board of Governors of the California Community Colleges—	
(1) For fiscal year 1975–76	$75,000.
(2) For fiscal year 1976–77	$150,000.

CHAPTER 1270

An act to add Division 25 (commencing with Section 40000) to, and to repeal Article 4 (commencing with Section 25524) of Chapter 3 of Division 18.5 of, and to repeal Chapter 3 (commencing with Section 31201), Chapter 3.4 (commencing with Section 31226), Chapter 3.5 (commencing with Section 31230), Chapter 3.6 (commencing with Section 31240), Chapter 4 (commencing with Section 31251.1), Chapter 4.4 (commencing with Section 31261), Chapter 4.5 (commencing with Section 31271), Chapter 4.6 (commencing with Section 31285.1), Chapter 4.7 (commencing with Section 31291), Chapter 4.8 (commencing with Section 31295), and Chapter 4.9 (commencing with Section 31298) of Division 22 of, and to repeal Chapter 4 (commencing with Section 41000), Chapter 5 (commencing with Section 41200), and Chapter 6 (commencing with Section 41400) of Division 25 of, the Education Code, relating to postsecondary education.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Article 4 (commencing with Section 25524) of Chapter 3 of Division 18.5 of the Education Code is repealed.

SEC. 2. Chapter 3 (commencing with Section 31201) of Division 22 of the Education Code is repealed.

SEC. 3. Chapter 3.4 (commencing with Section 31226) of Division 22 of the Education Code is repealed.

SEC. 4. Chapter 3.5 (commencing with Section 31230) of Division 22 of the Education Code is repealed.

SEC. 5. Chapter 3.6 (commencing with Section 31240) of Division 22 of the Education Code is repealed.

SEC. 6. Chapter 4 (commencing with Section 31251.1) of Division 22 of the Education Code is repealed.

SEC. 7. Chapter 4.4 (commencing with Section 31261) of Division 22 of the Education Code is repealed.

SEC. 8. Chapter 4.5 (commencing with Section 31271) of Division 22 of the Education Code is repealed.

SEC. 9. Chapter 4.6 (commencing with Section 31285.1) of Division 22 of the Education Code is repealed.

SEC. 10. Chapter 4.7 (commencing with Section 31291) of Division 22 of the Education Code is repealed.

SEC. 11. Chapter 4.8 (commencing with Section 31295) of Division 22 of the Education Code is repealed.

SEC. 12. Chapter 4.9 (commencing with Section 31298) of Division 22 of the Education Code is repealed.

SEC. 13. Division 25 (commencing with Section 40000) is added to the Education Code, to read:

DIVISION 25. STUDENT FINANCIAL AID PROGRAMS

CHAPTER 1. PURPOSES

40000. The Legislature finds and declares that:

(a) Student assistance programs have the primary purpose of providing equal opportunity and access to postsecondary education for persons of both sexes, and all races, ancestries, incomes, ages, and geographies in California;

(b) Student aid programs should enhance the ability of individuals to choose the most appropriate postsecondary educational opportunity and among different institutions;

(c) Student aid programs should assist students to progress through the educational program in accordance with the individual's educational objectives;

(d) Student aid programs should provide assistance to individuals who desire to enroll in an independent college or university;

(e) Student aid programs should, furthermore, complement more

general statewide goals for public postsecondary education;

(f) State purposes regarding student aid programs should complement the purposes of federal student assistance programs so as to enhance the effectiveness of state programs; the state's purposes mentioned above serve to enhance the purposes of the Federal Basic Educational Opportunity Grant Program.

CHAPTER 2. THE STUDENT AID COMMISSION

40200. The State Scholarship and Loan Commission is hereby renamed the Student Aid Commission, and shall be composed of the following 11 members:

(a) One representative from public, proprietary, or nonprofit postsecondary schools located in California.

(b) One representative from a California independent college or university.

(c) One representative each from the University of California, the California State University and Colleges, and the California community colleges.

(d) Two members each of whom must be a student enrolled in a California postsecondary educational institution at the time of appointment.

(e) Three public members.

(f) One representative from a California secondary school.

40201. (a) Each member of the commission shall have a four-year term; provided, that members appointed pursuant to subdivision (d) of Section 40200 shall have two-year terms.

(b) One student representative shall be appointed by the Governor and one shall be appointed by the Speaker of the Assembly. Such appointments shall be effective January 1, 1976.

(c) The member appointed pursuant to subdivision (a) of Section 40200 shall be appointed effective January 1, 1976, by the Senate Rules Committee.

(d) The member appointed pursuant to subdivision (f) of Section 40200 shall be appointed effective January 1, 1976, by the Governor.

(e) At no time shall both student representatives be enrolled in a California independent college or university or the University of California or the California State University and Colleges or a California community college.

(f) Current members of the State Scholarship and Loan Commission shall serve on the commission for the remainder of the terms for which they were appointed, and such members may be reappointed. Notwithstanding Section 40200, the commission shall consist of 13 members in 1976, 12 members in 1977, 1978, and 1979, and 11 members thereafter.

(g) Vacancies on the commission shall be filled by the Governor, the Speaker of the Assembly, or the Senate Rules Committee, on a rotating basis as such vacancies occur. The Governor, the Speaker of the Assembly, and the Senate Rules Committee shall fill the first,

second, and third vacancies, respectively. Such order of rotating the appointments to the commission shall be maintained thereafter. Appointments to fill vacancies shall be made in consultation with postsecondary educational institutions and student groups.

(h) The member appointed pursuant to subdivision (a) of Section 40200 shall be appointed from a list of nominees submitted jointly by the California Advisory Council on Vocational Education and Technical Training and the Council for Private Postsecondary Educational Institutions. The member appointed pursuant to subdivision (b) of Section 40200 shall be appointed from a list of nominees submitted by an association or associations of independent California colleges and universities. The members appointed pursuant to subdivision (c) of Section 40200 shall be appointed from lists of nominees each submitted by the Regents of the University of California, the Trustees of the California State University and Colleges, and the Board of Governors of the California Community Colleges, respectively. The members appointed pursuant to subdivision (d) of Section 40200 shall be appointed from lists of nominees submitted by student organizations. No list of nominees as specified in this subdivision shall contain less than three names.

(i) Whenever by the provisions of any act of Congress a program of scholarships or grants for undergraduate students is established which permits administration of such program within a state by a state agency, the Student Aid Commission, as established by Section 40200, shall administer such act within the state if the Governor and the Student Aid Commission, by a majority vote of its entire membership, determine that the participation by the state in the federal scholarship or grant program under such act would not interfere with or jeopardize the continuation of the scholarship program established under Sections 40400 to 40415, inclusive.

The commission shall constitute the state commission on federal scholarships or grants and is hereby empowered to formulate a plan for development and administration of any such federal scholarship or grant program within the state.

Subject to the provisions of this chapter, the commission is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in the administration of any act of Congress establishing a scholarship or grant program and the rules and regulations adopted thereunder.

Before adopting a state plan the Student Aid Commission, acting as the state commission on federal scholarships or grants, shall hold public hearings as provided in the California Administrative Procedure Act.

40202. The members of the commission shall select a chairman from the members of the commission at any meeting which is the first meeting held after there has been a change in membership.

40203. The commission shall appoint a director who shall be the chief executive officer for the commission, and shall serve at the pleasure of the commission. The Legislature hereby requests the

commission to designate such executive officer as the person holding the position confidential to it, within the meaning of subdivision 5, of Section 4, Article XXIV of the Constitution.

The commission may employ such other employees as it deems necessary to carry out its functions under this chapter.

40204. The commission shall:

(a) Report on or before January 1, 1978, and every two years thereafter, the impact and effectiveness of state-funded programs; the commission shall utilize common criteria in determining the impact of these programs, and shall have the authority to obtain any data from postsecondary educational institutions necessary for such reports.

(b) Collect and disseminate data concerning the financial resources and needs of students and potential students, and the scope and impact of existing state, federal, and institutional student aid programs.

(c) Report on or before January 1, 1977, and every other year thereafter, the aggregate financial need of individuals seeking access to postsecondary education and the degree to which current student aid programs meet this legitimate financial need.

(d) Develop and report annually to the Legislature, the Governor, postsecondary educational institutions, and the California Postsecondary Education Commission the criteria utilized in distributing available student aid funds;

(e) Expend six dollars ($6) for each authorized Cal Grant for the purpose of disseminating information about all institutional, state, and federal student aid programs to potential applicants. Such distribution of information shall primarily focus on potential applicants with the greatest financial need.

40205. As used in this division, "commission" means the Student Aid Commission created by this chapter.

CHAPTER 3. CALIFORNIA EDUCATIONAL OPPPORTUNITY GRANT PROGRAM

40400. The Legislature finds and declares that:

(a) The enactment of the Federal Basic Educational Opportunity Grant Program requires substantial changes in current state student aid programs if state programs are to effectively supplement federal student assistance.

(b) The entire student aid system, due to a proliferation of programs has resulted in substantial confusion and inefficiencies.

(c) One statewide student assistance program supplementary to the Federal Basic Educational Opportunity Grant Program would increase simplicity and effectiveness.

40401. There is hereby established a state educational opportunity grant program, which shall be known as the California Educational Opportunity Grant program or "Cal Grant." No new awards shall be granted under the provisions of Chapter 4

(commencing with Section 41000), 5 (commencing with Section 41200), or 6 (commencing with Section 41400) of this division after the 1976–1977 fiscal year.

40402. There shall be 20,425 new Cal Grant awards for first-time recipients for the 1977–1978 fiscal year and each year thereafter, except that new scholarships in subdivision (a) in excess of 4.25 percent of the number of high school graduates of the previous fiscal year, in subdivision (b) in excess of 3,100, and in subdivision (c) in excess of 700 shall not be awarded unless there are federal student financial aids funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards or unless the Legislature acts in the future to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal. Such grants shall be allocated as follows:

(a) 14,900 awards for the 1977–1978 fiscal year, and each fiscal year thereafter, to be utilized for tuition and student fees pursuant to Section 40405.

(b) 4,550 awards for the 1977–1978 fiscal year and each fiscal year thereafter, to be utilized for tuition, student fees, and subsistence costs pursuant to Section 40406.

(c) 975 awards for the 1977–1978 fiscal year and each fiscal year thereafter, to be utilized for occupational or technical training pursuant to Section 40407 through 40411.

40402.1. Cal Grant awards authorized pursuant to Section 40402 shall be defined as full-time equivalent grants. Awards to part-time students shall be a fraction of a full-time grant, as determined by the commission.

40403. The commission, in consultation with postsecondary institutions, shall develop and make available a single, common application form and a single, common financial statement, so that by July 1, 1977, the form shall be utilized for the Cal Grant program, all other programs funded by the state or a public institution of postsecondary education, and all federal programs administered by a public institution of postsecondary education. Supplemental forms may be utilized if such forms are essential to accomplishing the objectives of individual programs, as determined by the commission All supplemental forms utilized by public postsecondary educational institutions must be approved by the commission, and such forms shall be identical for programs with similar objectives, as determined by the commission. Public postsecondary institutions may decide whether or not to use the single common application form and the single common financial statement for funds provided by private donors.

40404. Cal Grant awards shall be based upon the financial need of the applicant, but for the applicants so qualifying, academic criteria or criteria related to past performances shall be utilized as the criteria in determining eligibility for grants The level of financial need of each applicant shall be determined by the commission,

taking into account the financial resources of the applicant and the applicant's family. All Cal Grant recipients shall be residents of California, as determined by the commission, and shall remain eligible only if they are in attendance and making satisfactory progress through the instructional programs, as determined by the commission. Part-time students shall not be discriminated against in the award of Cal Grants, and awards to part-time students shall be roughly proportional to the time spent in the instructional program, as determined by the commission. Cal Grants shall be awarded without regard to race, religion, creed, sex, or age. First-time Cal Grant recipients who are part-time students shall be eligible for a full-time renewal award. No applicant shall receive more than one type of Cal Grant award concurrently. A Cal Grant recipient shall be a citizen of the United States or, if he is under 21 years of age and not a citizen of the United States, either he or his parent or parents must have been admitted to the United States on a permanent resident visa.

The Student Aid Commission may, for students who accelerate college attendance, increase the amount of award for one academic year proportional to the period of additional attendance resulting from attendance at a summer term, session, or quarter. In the aggregate, the total amount a student may receive in a four-year period may not be increased as a result of accelerating his progress to a degree by attending summer terms, sessions, or quarters. The Student Aid Commission may provide by appropriate rules and regulations for such reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as it may deem proper.

The Student Aid Commission may establish Cal Grants in one hundred dollar ($100) increments.

40405. A Cal Grant award for tuition and student fees as provided in subdivision (a) of Section 40402 may be utilized at any California postsecondary educational institution or program eligible to participate in the Federal Basic Educational Opportunity Grant Program, or any institution recognized as a candidate for accreditation by the Western Association of Schools and Colleges or approved under the requirements of paragraph (2) of subdivision (a) of Section 29023, provided that such award may not be utilized by a student enrolled in an instructional program of less than two years. No such award may exceed the cost of tuition and fees, and shall in no event exceed the sum of two thousand seven hundred dollars ($2,700). Such awards may not be utilized for graduate study, and may be renewed for a total of four years of full-time attendance in an instructional program or an equivalent thereof, provided that financial need continues to exist.

40405.5. An individual who is awarded a Cal Grant award authorized pursuant to subdivision (a) of Section 40402 and enrolls in a public community college may elect to have the award held in trust for him for a period not to exceed two academic years, except

that the commission may extend the period in which his award may be held in trust up to a period of three academic years if, in the commission's judgment, the student's rate of academic progress has been as rapid as could be expected for the personal and financial conditions which the student has encountered. The commission shall, in such case, hold the award in trust, to be granted to the award winner upon receipt of his request therefor within such period, provided that at the time of making the request he meets all of the requirements of this chapter. Upon receipt of the request the commission shall assess or reassess the financial needs of the award winner. The commission may prescribe the forms and procedures to be utilized for the purposes of this section. The commission may award to another eligible individual any award being so held in trust, subject to the provisions of this section and any other conditions and restrictions that may be imposed by the commission, to the end that all authorized awards are being continually utilized. Following the first year for which any such award is made, such awards shall be included in the number of the continuing awards available for any year and not the authorized new awards for the year.

40406. To be eligible for a Cal Grant award for tuition, student fees, and subsistence costs as provided in subdivision (b) of Section 40402 the student shall be a disadvantaged student under criteria to be established by the commission, which shall take into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions which tend to make difficult the gaining access to and persisting in postsecondary programs. Such awards may be utilized for tuition, student fees, living expenses, transportation, supplies, and books.

The Legislature recognizes that the role of the community colleges, as the least expensive level of California higher education, is a crucial role in increasing the higher education opportunities for disadvantaged students, and it is the intent of the Legislature that the additional opportunities for higher education provided pursuant to this chapter shall be initiated primarily on the public community college level.

Grants awarded under this chapter shall be for living expenses, transportation, supplies and books, according to the student's financial need, and shall not be in excess of one thousand one hundred dollars ($1,100) per academic year. The Student Aid Commission may also award such grants and an additional amount to pay tuition and fees to attend college at a public or private four-year college or university. Any eligible student who has been awarded an initial grant on the basis of need and attendance at a public community college may transfer to another eligible college without being eliminated from the program. In such cases, no adjustments to the initial grant shall be made for tuition and fees.

In no case shall Cal Grant awards exceed the sum of three thousand four hundred dollars ($3,400), and such awards may not be utilized for graduate study. The awards may be utilized at any California

postsecondary educational institution or program eligible to participate in the Federal Basic Educational Opportunity Grant Program, or any institution recognized as a candidate for accreditation by the Western Association of Schools and Colleges or approved under the requirements of paragraph (2) of subdivision (a) of Section 29023, provided that such award may not be utilized by a student enrolled in an instructional program of less than nine months. The awards may be renewed for a total of four years of full-time attendance in an instructional program or an equivalent thereof, provided that financial need continues to exist.

40407. A Cal Grant award pursuant to subdivision (c) of Section 40402 shall be utilized for occupational or technical training in any California institution or program eligible to participate in the Federal Basic Educational Opportunity Grant Program, or any institution recognized as a candidate for accreditation by the Western Association of Schools and Colleges or approved under the requirements of paragraph (2) of subdivision (a) of Section 29023. As used in this section, "occupational or technical training" shall mean that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission.

40408. The commission may use criteria it deems appropriate in selecting students with occupational talents to receive grants for occupational or technical training.

40409. The recipients of such grants for occupational or technical training shall be eligible for renewal of their grants until they have completed their occupational or technical training in conformance with terms prescribed by the commission. In no case shall such grants exceed two calendar years, except that recipients enrolled in three-year, hospital-based programs to train licensed registered nurses may receive grants for a maximum of three calendar years. The average annual grant for recipients enrolled in three-year, hospital-based programs to train nurses shall not exceed in amount the average annual grant for two-year nursing programs. No grant shall be awarded for a course of training of less than four months duration.

40410. Grants awarded for occupational or technical training shall be for institutional fees, charges, and other costs in the nature of tuition, not to exceed two thousand dollars ($2,000) for the calendar year, plus up to five hundred dollars ($500) for training-related costs, such as special clothing, local transportation, required tools, equipment, supplies and books, according to the student's financial need. In determining the amount of grants and training-related costs, the commission shall take into account other state and federal programs available to the applicant.

40411. Grants for occupational or technical training shall be awarded in areas of manpower need as determined by the commission after consultation with appropriate state and federal agencies.

40412. The commission from time to time shall adopt such rules and regulations as it may determine, not in conflict with this chapter, as may be necessary or appropriate for effectuating the provisions of this chapter.

40413. If any section, subdivision, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that it would have passed this chapter, and each section, subdivision, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subdivisions, sentences, clauses or phrases be declared unconstitutional.

40414. The Student Aid Commission shall each year recommend to the Legislature concerning the allocation of funds from the federal state student incentive grant program and the programs authorized in subdivisions (a), (b), and (c) of Section 4042.

40415. As used in this division, "part-time student" means a student who is enrolled in not less than one-half of the course load of a full-time student as determined by the commission.

CHAPTER 4. COMPETITIVE SCHOLARSHIP PROGRAM

41000. The Legislature hereby declares that it regards the collegiate education of its qualified citizens to be a public purpose of great importance; and further declares the establishment of competitive scholarships pursuant to this chapter to be a desirable and economical method of furthering this public purpose. The Legislature has come to the conclusion that the benefit to the state in assuring the development of the talents of its qualified citizens will bring tangible benefits to the state in the future.

The Legislature further declares that there is an urgent need at present for the establishment of a state scholarship program, and that the most efficient and economical way to meet this need is through the plan prescribed in this chapter.

The Legislature further declares that it does not intend that this chapter be construed as granting any present or future right to the Legislature, or any other instrumentality of the state, to control or influence the policies of any educational institution involved in the state scholarship program.

41001. There are hereby created state competitive scholarships which shall be maintained by the state and awarded and administered pursuant to this chapter, and used by the award winner for undergraduate higher education study.

41002. State competitive scholarships shall be awarded without regard to race, religion, creed, national origin or ancestry, or sex.

41003. No person shall be awarded a scholarship unless:

(a) He is a resident of California as determined under the provisions of this code for determining the resident status of a student of a state college for the purposes of state college admission

fees and rates of tuition. Wherever such provisions refer to the trustees the reference shall, for the purposes of this section, be deemed to be to the commission, any reference to "the opening day of a semester during which a person proposes to attend a state college" shall be deemed to be the day upon which a person will receive a scholarship as determined by the commission, and any reference to "immediately prior to first entering any California institution of higher learning" shall be deemed to be immediately prior to the day upon which a person will receive a scholarship, as determined by the commission.

(b) He has graduated from high school or has been accepted for admission by an accredited college.

(c) He has demonstrated his financial need for such scholarship. The financial status of his parents shall be taken into consideration in determining his financial need.

(d) He has demonstrated high moral character, good citizenship, and dedication to American ideals.

(e) He has applied for a state competitive scholarship and has, by competitive examination, been determined to be eligible for such scholarship.

(f) He has complied with all of the rules and regulations adopted by the commission for the award, regulation, and administration of state competitive scholarships adopted pursuant to this chapter.

(g) He is a United States citizen; if he is under 18 years of age and is not a United States citizen, his parent or parents shall have a permanent resident visa.

41004. There shall be available for the 1975–1976 fiscal year such scholarships in an amount equal to 4.25 percent and for the 1976–1977 fiscal year such scholarships in the amount equal to 4.625 percent of the number of California high school graduates of the previous year, plus such scholarships for all state scholarship winners who meet all standards for renewal of their awards prescribed by the Education Code and by regulations of the commission, except that new scholarships in excess of 4.25 percent of the number of high school graduates shall not be awarded unless there are federal student financial aid funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal.

41006. A scholarship award winner may use his scholarship at any one of the institutions of collegiate grade located in California if such institution offers a two-year junior college or four-year college course and is accredited or accepted as a recognized candidate for accreditation by the Western Association of Schools and Colleges. Nothing contained in this chapter shall be interpreted to require any such institution to admit into such institution, or once admitted to continue in such institution, an award winner.

41007. Each competitive scholarship is for the period of one

academic year and the award shall be for three hundred dollars ($300) to not to exceed two thousand seven hundred dollars ($2,700) in one hundred dollar ($100) amounts at the college the award winner will attend, as required by applicant's financial need, as determined by the commission, but in no event in excess of an amount equal to the tuition or necessary fees, or both tuition and fees, for the academic year, including summer terms, sessions, or quarters of the institution at which the scholarship is used. No competitive scholarship awarded to an applicant under this section for the period of one academic year shall exceed the total amount of two thousand seven hundred dollars ($2,700); except that the commission may, for students who accelerate college attendance, increase the amount of award for one academic year proportional to the period of additional attendance resulting from attendance at a summer term, session, or quarter. In the aggregate, the total amount a student would receive in a four-year period may not be increased as a result of accelerating his progress to a degree by attending summer terms, sessions, or quarters. The commission may provide by appropriate rules and regulations for such reports, accounting, and statements from the award winner and college or university of attendance pertaining to the use or application of the award as it may deem proper. A competitive scholarship may be renewed annually without an additional competitive examination until the award winner has received four annual awards or until he has been graduated from such an institution in an undergraduate course, whichever is the earlier, provided that at or prior to such renewal the commission shall reassess the financial needs of such award winner and establish the amount of the award within the limits prescribed by this section. The scholarship shall remain in effect only during the period that the award winner achieves satisfactory academic progress and is regularly enrolled as a full-time student in an institution of collegiate grade, as described in Section 41006.

41008. Notwithstanding the provisions of Section 41007 the award may be granted and renewed during the first four years of full-time college attendance following first admission to college, as defined by the commission.

41009. In any instance where the commission shall deem necessary, a competitive scholarship may be granted for a single semester or quarter or for two quarters of an academic year, and the award payment therefor shall be prorated accordingly. In any event a scholarship is vacated by virtue of the award winner withdrawing from college, the commission may award the scholarship to another fully qualified student who has met all the requirements for a scholarship.

In any instance when a student who has been awarded a state scholarship attends a college at which the normal course of study, as announced by the college, for the baccalaureate degree is completed in three years rather than four years, the commission may increase the amount of the annual award authorized in Section 41007 by up

to one-third. In no event shall the scholarship of a student enrolled in a baccalaureate degree program of three years' duration exceed in the aggregate the total amount he would have received if enrolled in a four-year baccalaureate degree program.

41010. An individual who is awarded a competitive scholarship and enrolls in a public community college may elect to have the scholarship held in trust for him for a period not to exceed two academic years, except that the commission may extend the period in which his scholarship may be held in trust up to a period of three academic years if, in the commission's judgment, the student's rate of academic progress has been as rapid as could be expected for the personal and financial conditions which the student has encountered. The commission shall, in such case, hold the scholarship in trust, to be granted to the award winner upon receipt of his request therefor within such period, provided that at the time of making the request he meets all of the requirements of this chapter. Upon receipt of the request the commission shall assess or reassess the financial needs of the award winner. The commission may prescribe the forms and procedures to be utilized for the purposes of this section. The commission may award to another eligible individual any scholarship being so held in trust, subject to the provisions of this section and any other conditions and restrictions that may be imposed by the commission, to the end that all authorized scholarships are being continually utilized. Following the first year for which any such scholarship is awarded, awards thereof shall be included in the number of the continuing scholarships available for any year and not the authorized new scholarships for the year.

41011. The commission shall require all applicants to take a test administered under secure conditions on a national or statewide test date and acceptable for admission purposes at a college or university eligible to participate in the state scholarship program. In deciding upon the use of one or more tests which meet the conditions specified in this chapter, the commission shall appoint a panel of five psychologists or psychometrists who shall report to the commission on the appropriateness of each of the tests for scholarship purposes. If more than one test meets the conditions specified in this chapter, the panel shall also investigate and report to the commission its findings concerning the comparability of the tests. On the basis of the results of such examinations, plus other academic criteria which the commission may require, the commission shall determine the award winners for the next ensuing academic year. Such commission also shall determine which of the current award winners are making satisfactory academic progress and are entitled to an annual renewal of their scholarships.

41012. The commission from time to time shall adopt such rules and regulations as it may determine, not in conflict with this chapter, as may be necessary or appropriate for effectuating the provisions of this chapter.

41013. If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The Legislature hereby declares that it would have passed this chapter, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional.

41014. This chapter shall be effective until June 1, 1982, and on such date is repealed.

CHAPTER 5. COLLEGE OPPORTUNITY GRANT PROGRAM

41200. (a) The Legislature finds and declares that because of financial and home and community environmental conditions numerous students with substantial potential for success in college and for future leadership in the community are unable to pursue a higher education and attain their full educational potential. It further recognizes that to effectively combat the forces which prevent these students from pursuing a higher education different programs and methods must be tried. There is hereby created a state financial assistance program to be known as the "College Opportunity Grant Program." It is the purpose of this program to provide financial assistance for undergraduate study to disadvantaged students who are not necessarily able to avail themselves of present state competitive scholarships by the use of conventional selection methods, pursuant to Chapter 4 (commencing with Section 41000) of this division.

(b) The Legislature further recognizes that the role of the community colleges, as the least expensive level of California higher education, is a crucial role in increasing the higher education opportunities for disadvantaged students.

41201. The College Opportunity Grant Program shall be a program administered by the commission, which shall adopt rules and regulations necessary or appropriate to effectuate the provisions of this chapter and may use experimental methods and subjective judgments as well as conventional selection methods.

41201.1. There shall be 3,100 new grants available for the 1975–1976 fiscal year and 4,550 new grants available for the 1976–1977 fiscal year, except that new grants in excess of 3,100 shall not be awarded unless there are federal student financial aid funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal.

41202. The recipients of such grants shall be eligible for renewal of their awards until they have completed an A.B. degree or its equivalent in conformance with the terms prescribed by the commission, which terms shall not be in conflict with this chapter.

Such grants may be awarded to eligible students who attend public community colleges for vocational purposes terminating with a two-year course of study. Such grants may be utilized at summer quarters or terms; provided, that the aggregate amount of aid received over a four-year period may not be increased as a result of attending a summer term.

41203. To be eligible for a grant under this chapter, a student shall meet all of the following:

(a) Be a disadvantaged student under criteria to be established by the commission, which shall take into consideration those financial, educational, cultural, language, home, community, environmental, and other conditions which tend to make difficult the gaining access to and persisting in postsecondary programs.

(b) Be in need of financial assistance to attend college.

(c) Have demonstrated substantial potential for successfully participating at an institution of higher education and for future leadership in the community.

(d) Be a resident of the State of California, as defined in Article 5 (commencing with Section 22845) of Chapter 7 of Division 16.5.

(e) Be a citizen of the United States or have been admitted to permanent residence.

(f) Be admitted to and enrolled in a California public community college either accredited by or accepted as a recognized candidate for accreditation by the Western Association of Schools and Colleges, or be admitted to and enroll in a California public or private college accredited by the Western Association of Schools and Colleges as a full-time undergraduate student.

(g) Maintain satisfactory progress toward a degree and eligibility as defined by the commission.

41204. Grants awarded under this chapter shall be for living expenses, transportation, supplies and books, according to the student's financial need, and shall not be in excess of one thousand one hundred dollars ($1,100) per academic year. The commission may also award such grants and an additional amount to pay tuition and fees to attend college at a public or private four-year college or university. Any eligible student who has been awarded an initial grant on the basis of need and attendance at a public community college may transfer to another eligible college without being eliminated from the program. In such cases, no adjustments to the initial grant shall be made for tuition and fees.

41205. The commission shall submit to the Legislature at each regular session, an evaluation of the operation of the College Opportunity Grant Program.

41206. The commission is hereby authorized to accept and receive any federal funds made available under any act of Congress for purposes of this chapter, and to participate in any federal program under such act of Congress in order to secure such funds. The commission shall assist any person eligible for a grant under this chapter to secure or obtain any scholarships or loans which such

person might be eligible to receive, in order to minimize the expense of this program to the State of California.

41207. This chapter shall be effective until June 1, 1981, and on such date is repealed.

CHAPTER 6. OCCUPATIONAL EDUCATION AND TRAINING GRANT PROGRAM

41400. The Legislature hereby finds that there are students who have the aptitude and desire to train for specific occupations, vocations or technical careers, but do not have financial resources to enter public or private training programs and that a greater supply of competent, technically trained, skilled manpower in critical occupations is a public purpose of great importance; and, further, that the establishment of a program pursuant to this chapter is a desirable, necessary, and economical method of aiding such students and strengthening the economic base of the state.

41401. There is hereby created a state competitive occupational education and training grant program, with grants to be provided by the state and administered by the commission.

Occupational education and training grants shall be awarded without regard to race, creed, national origin or ancestry, or sex

41402. To be eligible for an occupational education and training grant under this chapter, an applicant shall meet all of the following requirements:

(a) Be a resident of the State of California, as defined in Article 5 (commencing with Section 22845) of Chapter 7 of Division 16.5.

(b) Be a citizen of the United States or have been admitted to permanent residence.

(c) Demonstrate occupational achievement or aptitude and financial need. In determining occupational achievement or aptitude, the commission may use acceptable testing procedures to the extent these are available. In determining financial need of an applicant, the commission shall expect each student to make a self-help contribution toward occupational or technical training costs and the financial status of his parents shall be taken into consideration.

(d) Use his grant for occupational or technical training in California in institutions either accredited or accepted as a recognized candidate for accreditation by the Western Association of Schools and Colleges or by a national accrediting association recognized by the United States Office of Education. As used in this section, "occupational or technical training" shall mean that phase of education coming after the completion of a secondary school program and leading toward recognized occupational goals approved by the commission, which shall include three-year hospital-based programs to train licensed registered nurses approved by the Board of Registered Nursing.

(e) Have applied for a state occupational education and training

grant and have met the criteria established by the commission for eligibility for such grant.

(f) Have complied with all of the rules and regulations adopted by the commission for the award, regulation, and administration of state occupational education and training grants adopted pursuant to this chapter.

41403. The commission shall adopt rules and regulations necessary or appropriate to effectuate the provisions of this chapter.

The commission may use criteria it deems appropriate in selecting students with occupational talents to receive grants.

The commission shall seek the aid and advice of a committee of nine members appointed by the commission and composed of individuals who shall be representatives of both proprietary and public institutions and who shall be knowledgeable in the area of occupational and technical education and training. At least a majority of the members of the committee shall be actively working or otherwise involved in the area of occupational and technical education and training.

41403.1. There shall be 700 new grants for the 1975–1976 fiscal year and 975 new grants for the 1976–1977 fiscal year, except that new grants in excess of 700 shall not be awarded unless there are federal student financial aid funds available to the State Scholarship and Loan Commission in an amount necessary to fund such awards. First priority for federal state student incentive grant funds shall be for students originally funded from state student incentive grant funds who are eligible for renewal.

41404. The recipients of such grants shall be eligible for renewal of their grants until they have completed their occupational or technical training in conformance with terms prescribed by the commission. In no case shall such grants exceed two calendar years, except that recipients enrolled in three-year, hospital-based programs to train licensed registered nurses may receive grants for a maximum of three calendar years; nor shall such grants be awarded for a course of training of less than six weeks duration.

41405. Grants awarded under this chapter shall be for institutional fees, charges, and other costs in the nature of tuition, not to exceed two thousand dollars ($2,000) for the calendar year, plus up to five hundred dollars ($500) for training-related costs, such as special clothing, local transportation, required tools, equipment, supplies and books, according to the student's financial need. In determining the amount of grants and training-related costs, the commission shall take into account other state and federal programs available to the applicant.

41406. Grants shall be awarded in areas of manpower need as determined by the commission after consultation with appropriate state and federal agencies.

41407. Prior to awarding grants under this chapter, the commission shall adopt procedures for evaluation of the occupational education and training grant program. In determining these

procedures, the commission shall consider the advisability of limiting either the number of occupational programs or the number of geographic areas or both to facilitate evaluation.

41408. Nothing in this chapter shall be interpreted to require any institution to admit an award winner into such institution, or to continue him once he is admitted.

41409. The commission shall submit to the Legislature on the fifth legislative day of each calendar year an evaluation of the operation of the occupational education and training grant program.

41410. This chapter shall be effective until June 1, 1980, and on such date is repealed.

CHAPTER 8. CALIFORNIA STATE UNIVERSITY AND COLLEGES EDUCATIONAL OPPORTUNITY PROGRAM

41800. There is a state student assistance program which shall be known as the State University and Colleges Educational Opportunity Program. It shall be the purpose of the program to provide educational assistance and grants for undergraduate study at the California State University and Colleges to students who are economically disadvantaged or educationally and economically disadvantaged, but who display potential for success in accredited curricula offered by the California State University and Colleges.

For the purposes of this chapter:

(a) "Trustees" means the Trustees of the California State University and Colleges.

(b) "Educational agency" means an agency, other than a federal agency, which is supported in whole or in part by funds appropriated for educational purposes.

(c) "State agency" means every state office, officer, department, division, bureau, board, and commission.

(d) The residence of a recipient shall be determined in accordance with the rules for determining residence prescribed by Chapter 7 (commencing with Section 22800) of Division 16.5 and Article 1 (commencing with Section 23751) of Chapter 3 of Division 18 of this code.

41801. California State University and Colleges Educational Opportunity Program grants may be awarded to persons selected for enrollment in programs authorized by the trustees according to the procedures established by the trustees, provided that they are residents of this state, are high school graduates or have, pursuant to such procedures, equivalent qualifications, and have been nominated by their high school, the Veterans Administration, a state agency or educational agency designated by the trustees, or a state university or college president. The trustees shall determine eligibility for grants awarded pursuant to this chapter. Such grants may be granted and renewed according to standards set by the trustees until the student has received a baccalaureate degree or has completed four academic years, whichever occurs first. In special

circumstances, such as illness or military service, or family hardship, the trustees may renew the grant beyond the fourth year of study, provided the student has not received a baccalaureate degree. When the recipient is an enrollee in a special educational opportunity program approved by the trustees, for the purposes of this chapter, the state university or college sponsoring the program shall receive from the trustees reimbursement of up to sixty dollars ($60) per month per enrollee up to 12 months support.

41802. Grants shall be provided for students who display potential for success in accredited curricula offered by the California State University and Colleges, but lack the necessary funds to pay for tuition, books, and room and board, provided such students meet the standards of the state university or college which they are attending or the requirements for the special admissions program established by the trustees.

41803. Grants awarded pursuant to this chapter shall be in an amount sufficient to pay the costs of a student, during his course of study, for tuition, books, and room and board in accordance with his needs as shall be determined by the trustees. No student shall be awarded a grant in excess of seven hundred dollars ($700) per academic year.

41804. Each high school in this state may nominate to the trustees students it deems deserving of the grants made available under this chapter. The trustees shall compile a list of students so nominated from which it may select students for grants in accordance with standards set by the trustees pursuant to this chapter. The Veterans Administration, state agencies and educational agencies and California State University and Colleges presidents may nominate persons whom they deem eligible for such grants.

41805. Records of the academic progress of each student attending a campus of the California State University and Colleges under a grant shall be kept by each campus of the California State University and Colleges having a program and forwarded to the trustees in order that the program created by this chapter may be evaluated.

41806. Each campus of the California State University and Colleges may submit plans for a special educational opportunity program for approval by the trustees. Each program qualifying shall be authorized a program director and may be authorized such special qualified counselors and advisers and such related operating and equipment support as is appropriate.

41807. This chapter shall be known as the California State University and Colleges Educational Opportunity Act.

CHAPTER 9. COMMUNITY COLLEGE EXTENDED OPPORTUNITY PROGRAMS AND SERVICES

42000. It is the intent of the Legislature that the California community colleges recognize the need and accept the

responsibility for extending the opportunities for community college education to all who may profit therefrom regardless of economic, social and educational status. It is the intent and purpose of the Legislature to encourage local community colleges to establish and develop programs directed to identifying those students affected by language, social, and economic handicaps to establish and develop services, techniques, and activities directed to the recruitment of such students to and their retention in community colleges and to the stimulation of their interest in intellectual, educational and vocational attainment.

The Legislature finds that the establishment and development of extended opportunity programs and services are essential to the conservation and development of the cultural, social, economic, intellectual and vocational resources of the state.

42001. An "extended opportunity program or service" is an undertaking by a community college, to be taught by instructors approved by the governing board, in the form and in accordance with procedures prescribed by this article, which is over, above, and in addition to, the regular educational programs of the college, having as its purpose the provision of positive encouragement directed to the enrollment of students handicapped by language, social, and economic disadvantages, and to the facilitation of their successful participation in the educational pursuits of the college. Participation in an extended opportunity program or service shall not preclude participation in any other program which may be offered in the college.

42002. Definitions:

(a) "Board" means the Board of Governors of the California Community Colleges as created by Chapter 1.5 (commencing with Section 185) of Division 2.

(b) "District" means any school district in California that maintains one or more community colleges.

(c) "College" means a community college established by the governing board of a school district authorized to provide community college instruction.

(d) "Extended opportunity program" means a special program or method of instruction designed to facilitate the language, educational or social development of a student and increase his potential for success in the college.

(e) "Extended opportunity services" means a program of assistance designed to aid students with socioeconomic handicaps to permit them to enroll in and participate in the educational activities of the college.

42003. There is in the state government the Advisory Committee on Extended Opportunity Programs and Services. It shall be comprised of nine members appointed by the board, two members appointed by the Speaker of the Assembly and two members appointed by the Senate Committee on Rules. The nine members appointed by the board shall serve for four-year terms, except the

first term of each shall be determined by lot at the first meeting of the board. Three shall serve for four years, three shall serve for three years, and three shall serve for two years. The two members appointed by the Speaker of the Assembly and the two members appointed by the Senate Committee on Rules shall serve at the pleasure of the respective appointing powers.

42004. The chairman and vice chairman of the committee shall be designated by the board from among the members appointed by the board.

42005. The members of the committee shall serve without compensation, but shall be reimbursed for necessary traveling and other expenses incurred in performing their duties and responsibilities.

42006. The committee shall serve as an advisory body to the board, shall formulate and present such policy recommendations as it determines will effect statewide establishment and conduct of community college programs of extended opportunities and services, shall review annually and report to the board the progress made under this article with the California community colleges toward the extension of educational opportunities for all students who may profit from instruction, and make other recommendations to implement the provisions of this article. The chancellor of the community colleges shall be executive secretary of the committee, shall report to the board on the actions of the committee, and at the recommendation of the committee and its direction shall make recommendations to the board pursuant to this article.

42007. All meetings of the committee shall be open and public, and all persons shall be permitted to attend any meeting of the committee.

42008. The board shall adopt rules and regulations necessary to implement the provisions of this article including rules and regulations which:

(a) Prescribe the procedure by which a district shall identify a student eligible for extended opportunity programs or services.

(b) Establish minimum standards for the establishment and conduct of extended opportunity programs and services.

(c) Require the submission of such reports by districts as will permit the evaluation of the program and services offered.

42009 The governing board of any district may, with the approval of the board, establish an extended opportunity program. Such program may include, but need not be limited to:

(a) The provision of tutorial services.

(b) The establishment of remedial and developmental courses.

(c) The establishment of a program of multicultural studies.

(d) The provision of counseling services.

(e) The provision of recruitment services.

42010. The governing board of any district may, with the approval of the board, establish extended opportunity services. Such services may include, but need not be limited to:

(a) Loans or grants to meet living costs or a portion thereof.
(b) Loans or grants to meet the cost of student fees.
(c) Loans or grants to meet cost of transportation between home and college.
(d) The provision of scholarships.
(e) Work-experience programs.
(f) Job placement programs.

42011. The governing board of any district may use any funds under its control not specified to be used for another particular purpose for the programs and services authorized by Sections 42009 and 42010, the administration of such programs and services, and may use such funds to meet the matching requirements to receive federal funds, or funds granted by nonprofit foundations, designated for the same purposes.

42012. The governing board of any district may apply to the board for an allowance to meet all or a portion of the cost of establishing and operating extended opportunity programs or services authorized by this article. The application shall contain a detailed plan or plans for use of the allowance. The plan or plans shall be submitted in accordance with rules and regulations adopted by the board. The board may also adopt rules and regulations relating to the form and content of applications and procedures for review, evaluation, and approval thereof.

42013. Applications shall be subject to the approval of the board. Upon approval by the board, it shall certify an apportionment or apportionments to the Controller. The Controller shall draw warrants on the State Treasury in the amounts certified in favor of the county treasurer of the county which has jurisdiction over the applicant district in accordance with a schedule of payments established by the board and approved by the Department of Finance. The county treasurer shall immediately credit the general fund of the applicant school district exactly as apportioned by the board.

42014. The board shall review the need for state funds to carry out the purposes of this article and shall include an estimate of such need in its budget for each year.

CHAPTER 10. FELLOWSHIPS FOR GRADUATE STUDY

42200. There is hereby created a state competitive graduate fellowship program with fellowships to be provided by the state and used by award winners for graduate study in colleges and universities located in California and accredited by the Western Association of Schools and Colleges, or in a professional school with a program leading to a graduate level professional law degree which is located in California and which is accredited pursuant to Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code. As used in this section "graduate study" shall mean that phase of education coming after the completion of the

baccalaureate degree and leading toward a recognized graduate or professional degree. Awards shall be granted to students with academic ability and financial need. The financial status of the applicant's parents shall be taken into consideration in determining the applicant's financial need. In determining the financial need of an applicant, the commission shall also expect each student to make a self-help contribution toward college costs through loans or employment or a combination of loans and employment.

42201. The general purpose of the fellowship program is to afford opportunity for graduate study to unusually able persons. The awards shall be tenable for graduate work in the sciences, social sciences, humanities, the arts, mathematics, engineering, business, education, and any other graduate or professional field determined by the commission to be appropriate.

42202. The Legislature finds and declares that because of financial, home, and community environmental conditions, numerous students with unusual ability and substantial potential for success in graduate school are unable to pursue a graduate education and attain their full educational potential. It is further recognized that to combat effectively the forces which prevent these students from pursuing a graduate education, financial assistance is required. To further this purpose, the state graduate fellowship program shall provide financial assistance to unusually able persons, and the commission, in selecting unusually able persons, shall give consideration to students who are disadvantaged as defined by the commission. The Graduate Fellowship Advisory Committee created pursuant to Section 42203 shall present to the commission a comprehensive plan of selection of graduate fellowship winners which shall give consideration to unusual ability and achievement and shall recognize special problems of selecting students with unusual ability and achievement with substantial potential for success in graduate school who may come from a disadvantaged background.

42203. The program for granting fellowships for graduate study shall be conducted under the general supervision of the commission, with the aid and advice of a committee of nine members appointed by the commission and composed of college and university teachers and graduate deans from the colleges and universities in California which are accredited or are candidates for accreditation by the Western Association of Schools and Colleges.

The commission shall prescribe the forms for all applications and certificates required in connection with the fellowship program. The commission shall, from time to time, adopt such rules and regulations as it may determine not in conflict with this chapter as may be necessary, or appropriate, for effecting the provisions of this chapter.

42204. Awards shall be for one academic year of graduate study, and may be renewed for up to three additional years if necessary for the student's degree objective if he is making normal progress toward a degree as determined by the commission. Awards of

graduate fellowships shall be made upon a competitive basis. The commission may use experimental methods and subjective judgments, as well as conventional methods, in making its determination as to who qualifies as award recipients. The commission may take into account such factors as the following:

(a) Grades at the undergraduate level in the subject field in which the student wishes to do graduate work.

(b) Grades in the total undergraduate program.

(c) Aptitude for graduate work in the subject field, insofar as it is measurable.

(d) General aptitude for graduate study, insofar as it is measurable.

(e) Critical manpower needs in fields eligible for fellowships for graduate study.

42205. The graduate study fellowships shall be awarded:

(a) Without regard to race, religion, creed or sex.

(b) For not more than one academic year, plus one summer term if necessary, except as provided in Section 42204.

42206. No person shall be granted a fellowship unless:

(a) He is a resident of California.

(b) He has received, or will have received, a baccalaureate degree prior to the time of enrollment in a graduate school or has been accepted for admission by a graduate or professional school.

42207. Candidates for the awards shall apply for the awards to the commission and comply with all of the rules and regulations adopted by the commission for the award, regulation and administration of the state graduate fellowship program pursuant to this chapter.

42208. There shall be graduate fellowships, including renewals, for each academic year equal in number to 2 percent of the total number of baccalaureate degrees awarded during the next preceding academic year by colleges and universities located in California and accredited by the Western Association of Schools and Colleges.

42209. Awards shall be made for full-time graduate study, as defined by the institution which the student attends. Income received through teaching assistantships, research assistantships, or other fellowships shall be considered at full value in determining the financial need of an applicant.

42210. The candidates for the award must apply for the awards to the commission and comply with all the rules and regulations adopted by the commission for the award regulation and the administration of the state graduate fellowship program pursuant to this chapter.

42211. The award may be in a lump sum or in periodic payments as determined by the commission.

42212. The Legislature hereby declares that it is to the benefit of the state to assist in the development of the talents of able students in graduate education and that it regards the graduate education of its qualified citizens to be a public purpose of great importance; and

further declares the establishment of a graduate fellowship program to be a desirable and economical method of furthering this public purpose.

CHAPTER 11. TUITION GRANT PROGRAM

42400. The Legislature hereby finds and declares that there is an apparent need to narrow the gap in student charges between public universities and colleges and independent institutions of higher education in California; to provide students from lower- and middle-income families with true economic and academic freedom of choice in selecting a college; to give independent colleges a reasonable opportunity to compete with public institutions in recruiting all qualified students; and to help assure that independent colleges will continue to contribute to the overall quality and diversity of higher education in California.

42401. (a) There is hereby created a pilot program of tuition grants to be administered by the commission for California resident undergraduate students enrolled in independent institutions of collegiate grade accredited by the Western Association of Schools and Colleges. To be eligible for a tuition grant, a student must meet the academic eligibility requirements for a scholarship under the state competitive scholarship program as determined in accordance with this chapter and the financial eligibility requirements established in subdivision (d).

(b) Tuition grants shall be available to students who are residents of the State of California as defined in subdivision (a) of Section 41003 and who are entering independent colleges as undergraduate students. Such grants shall be renewable on an annual basis, shall not exceed four years or the completion of the baccalaureate degree, whichever first occurs, and shall be administered insofar as not inconsistent with the provisions of Chapter 4 (commencing with Section 41000) of this division.

(c) A tuition grant shall be in the amount of nine hundred dollars ($900) per academic year or one-third of the cost of tuition per academic year, whichever is less.

(d) No student shall be eligible for financial aid under this section if such student's annual financial resources as determined by the commission exceed by more than one thousand five hundred dollars ($1,500) the resources of a student eligible for a minimum state scholarship award at the institution attended. Nor shall any student receive aid hereunder during any year in which such student is eligible for and accepts financial aid from the state competitive scholarship program or the college opportunity grant program.

(e) There shall be available up to 1,250 new grants in each of the 1975–76, 1976–77, and 1977–78 fiscal years, and the recipients of such grants shall be eligible for renewal of their awards on an annual basis, subject to such limitations as may be established by or pursuant to subdivisions (a), (b), and (d) and such recipients' continuance of

satisfactory progress toward a degree, as such progress may be defined by the commission.

(f) The commission shall adopt such rules and regulations as may be necessary to carry out the provisions of this section.

42402. The commission shall review the effect of the program in expanding the educational freedom of choice of California students and shall report its findings and recommendations to the Legislature prior to January 1 of the years 1976, 1977, and 1978.

CHAPTER 12. CALIFORNIA COMMUNITY SERVICE FELLOWSHIP PROGRAM

42600. In enacting the California Community Service Fellowship Program, the Legislature makes the following findings and determinations relative to the factors contributing to the need for such a program:

(a) Society provides substantial incentives which urge young individuals to enter a formal institution of higher education.

(b) Active involvement in the community between an individual's experience in high school and entrance into higher education and during periods which the young person interrupts his college or university experience should be viewed as equally legitimate learning options by both the young person and the society.

(c) Many college and university students drop out or attend reluctantly because they see the traditional college experience as not fulfilling and not appropriate to their individual learning needs. These individuals suffer a substantial personal loss and impose unnecessary costs upon the state.

(d) Student learning is viewed by many as an active process involving the factor of individual motivation. Traditional higher education continues to emphasize the passive involvement of students.

(e) Veterans who continue to attend college and universities under the Servicemen's Readjustment Act have proven to possess an increased commitment to learning and greater motivation than those students who entered higher education directly upon graduation from high school.

(f) The young person's academic program and career choices are very often based upon inadequate information and minimal nonschool experiences.

42601. For purposes of this chapter, the term "community service" includes, but is not limited to, work performed for a community service agency in such fields as environmental quality, health care, education, local, state, and federally funded public assistance programs, public safety, crime prevention and control, transportation, recreation, housing and neighborhood improvement, rural development, conservation, child care, outdoor beautification, and other fields of human betterment and community improvement.

42602. Any individual shall be eligible to participate in the

program if employed in community service work for an average of 20 hours or more per week, and is paid not more than the federal minimum wage.

42603. An individual meeting the eligibility requirements prescribed by Section 42602 and participating in the program shall accrue fellowship benefits at the rate of one hundred dollars ($100) per month while performing community service work, and shall receive benefits only if such service is for a period of not less than six months. Participants shall not accrue additional benefits after participating in the program for 24 months. Service of less than one month shall be credited proportionately.

42604. A fellowship, entitling the participant to receive the accrued benefits, shall be awarded to the participant at the time he or she enrolls at a public or private postsecondary educational institution. The accrued benefits shall be paid to the participant at monthly intervals during the academic year and in amounts selected by the participant, but not to exceed two hundred dollars ($200) per month, until the accrued benefits are exhausted.

42605. A fellowship may be awarded at any time within eight years following the rendition of qualifying community service.

42606. Fellowships awarded pursuant to this chapter shall be funded from moneys appropriated for such purpose by the Legislature.

CHAPTER 13. ADMINISTRATION OF FEDERAL SCHOLARSHIP PROGRAM

42800. Whenever by the provisions of any act of Congress a program of scholarships for undergraduate students is established which permits administration of such program within a state by a state agency, the commission, as established by Section 40200 shall administer such act within the state if the Governor and the commission, by a majority vote of its entire membership, determine that the participation by the state in the Federal Scholarship Program under such act would not interfere with or jeopardize the continuation of the scholarship program established under Chapter 4 (commencing with Section 41200) of this division.

42801. The commission shall constitute the State Commission on Federal Scholarships and is hereby empowered to formulate a plan for development and administration of the Federal Scholarship Program within the state.

42802. Subject to the provisions of this chapter, the commission is hereby vested with all necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in the administration of the act of Congress establishing a scholarship program and the rules and regulations adopted thereunder.

Before adopting a state plan the State Commission on Federal Scholarships shall hold public hearings as provided in the California

Administrative Procedure Act.

42803. The commission is authorized to enter into a contract with the United States Commissioner of Education for purposes of conducting programs to encourage full utilization of educational talent authorized by Section 408(a) of Title IV of Public Law 89-329.

CHAPTER 14. STATE GUARANTEED LOAN PROGRAM

43000. There is hereby established a State Guaranteed Loan Program for college students, to be consistent with Title IV of the act of Congress entitled the "Higher Education Act of 1965" (P.L. 89-329), and extensions thereof, or any similar act of Congress and the rules and regulations adopted thereunder.

43001. The purpose of the guaranteed loan program shall be as follows:

(a) To provide a source of credit to students who are residents of California to assist them in meeting educational costs at a community college, college, or university of their choice which is accredited by an accreditation association recognized by the United States Commissioner of Education for this purpose.

(b) To accept, receive and administer the funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof, or any similar act of Congress.

43002. State guaranteed loans made pursuant to this chapter shall be made without regard to race, religion, creed or sex.

43003. The commission shall administer the guaranteed loan program established pursuant to this chapter. The commission is hereby vested with authority to enter into any contract with the United States Commissioner of Education or any other federal officer or agency under Title IV of the Higher Education Act of 1965, any extension thereof, or any similar act of Congress, and is hereby vested with all other necessary power and authority to cooperate with the government of the United States, or any agency or agencies thereof, in administration of the act of Congress and the rules and regulations adopted thereunder. The commission shall adopt any rules and regulations it deems necessary for the proper administration of this chapter.

43004. In the event that the amount of loans applied for under this chapter exceeds the amount of the loans that may be guaranteed pursuant to this chapter, the commission may establish a system of priorities for the approval of loans.

43005. (a) The commission shall guarantee any student loan made pursuant to this chapter at 100 percent of the amount of the loan.

(b) The commission shall establish the ratio of reserve funds to loans outstanding.

43006. There is hereby created in the State Treasury the State Guaranteed Loan Reserve Fund. All money received from federal, state or local governments, or from other private or public sources,

for the purposes of this chapter shall be deposited in the fund. The money deposited in the fund is hereby appropriated, without regard to fiscal years, for purposes of this chapter.

The total amount of all outstanding debts, obligations, and liabilities which may be incurred or created under this chapter, including any obligation to repay to the United States any funds provided under Title IV of the "Higher Education Act of 1965," and extensions thereof, or any similar act of Congress, is limited to the amount contained in the State Guaranteed Loan Reserve Fund, and the state shall not be liable beyond the amount contained in such fund for such debts, obligations, and liabilities.

43007. The State Treasurer shall invest, pursuant to statute, any surplus money in the State Guaranteed Loan Reserve Fund. The interest or other accretions as a result of the investment of such money may accrue to the fund or be expended for administration pursuant to federal regulations.

43008. The funds in the State Guaranteed Loan Reserve Fund shall be paid out by the State Treasurer on warrants drawn by the Controller and requisitioned by the commission in carrying out the purposes of this chapter and the federal act.

43009. The commission shall establish a Loan Study Council. The Loan Study Council shall be comprised of 10 members, appointed as follows:

(a) Two of the members shall be appointed by the commission from among the members of the commission.

(b) Two of the members shall be appointed by the commission from persons representative of the private lending institutions of the state.

(c) Two of the members shall be appointed by the Governor.

(d) Two of the members shall be appointed by the Speaker of the Assembly.

(e) Two of the members shall be appointed by the Senate Committee on Rules.

The appointments authorized by this section shall be made on or before June 30, 1966.

43010. The Loan Study Council shall study the operation of the State Guaranteed Loan Program under this chapter and shall periodically report to the Legislature with recommendations as to any changes or modifications it finds are needed in the operation of the program.

43011. This chapter shall be applicable to the extent that its provisions do not conflict with Title IV of the Higher Education Act of 1965, or any extensions thereof, or any similar act of Congress, and the rules and regulations adopted thereunder.

CHAPTER 15. CONTRACTS FOR STUDY OF MEDICINE

43200. The Legislature hereby declares that it regards the furtherance of a greater supply of competent physicians and

surgeons to be a public purpose of great importance and further declares the establishment of the program pursuant to this chapter to be a desirable, necessary, and economical method of increasing the number of physicians and surgeons to provide needed medical services to the people of California. The Legislature further declares and finds that some of the independent institutions of higher education in the State of California currently offering a program providing the necessary educational requirements leading toward a doctor of medicine degree have substantial assets in terms of available facilities, equipment and personnel and are capable of increasing enrollment in such programs at a cost substantially below that which it would cost the state to provide such services such as by the establishment of a new medical school in a state college or university and thus maximize the use of state resources for the support or expansion of existing educational programs. The Legislature further declares that it is to the benefit of the state to assist in increasing the number of competent physicians and surgeons graduated by colleges and universities of this state to practice medicine within the state.

43201. As used in this chapter, "study" means that phase of education in an accredited medical school leading toward a recognized doctor of medicine degree. The terms "college" and "university" mean any college or university which conducts a recognized educational program leading to the award of the degree of doctor of medicine.

43202. There is hereby created a state medical contract program for study in the field of medicine leading toward a doctor of medicine degree in colleges and universities located in California and accredited by the Joint Liaison Committee of the American Medical Association and the Association of American Medical Colleges.

43203. The commission shall have the authority to contract on behalf of the state with private colleges and universities maintaining and operating a recognized school of medicine and accredited by the Joint Liaison Committee of the American Medical Association and the Association of American Medical Colleges, which have an affirmative action program approved by the State Fair Employment Practice Commission for the equitable recruitment of instructors and medical students, for the purpose of inducing such colleges and universities to refrain from reducing enrollment and to increase enrollment in the medical schools located in California.

To further this purpose, the commission is authorized to contract with non-state-supported medical schools to increase their enrollment above the number of total students enrolled for the 1970–71 academic year. The commission is authorized to make annual payments of twelve thousand dollars ($12,000) for each medical student enrolled up to the total enrollment above the enrollment for the 1970–71 academic year. The annual payment for each additional medical student enrolled shall be decreased by the amount of any federal funds granted per medical student enrolled in

any such schools during the academic year. The commission may also enter into similar contracts with medical schools formed on or after January 1, 1971, which have at least provisional accreditation from the Joint Liaison Committee of the American Medical Association and the Association of American Medical Colleges.

CHAPTER 16. FORFEITURE OF STATE AID TO STUDENTS

43400. In accepting a scholarship, loan, fellowship, grant-in-aid, or any other financial aid given or guaranteed by the state for assistance, every recipient thereof who is a student at a public or private university, college, or other institution of higher education, shall be deemed to have agreed to observe the rules and regulations promulgated by the governing authority of the university, college, or other institution of higher education, for the government thereof.

Any recipient of such state financial aid who, on the campus of the university, college, or other institution of higher education, willfully and knowingly commits any act likely to disrupt the peaceful conduct of the activities of such campus, and is arrested and convicted of a public offense arising from such act, may be determined to be ineligible for any such state financial aid for a period not to exceed the ensuing two academic years.

Any recipient of such state financial aid who, after a hearing, is found to have willfully and knowingly disrupted the orderly operation of the campus, but has not been arrested and convicted, may be determined to be ineligible for any state financial aid for such period as the hearing board may determine, not to exceed the ensuing two academic years.

Any such recipient who is suspended from an institution of higher education for such acts shall be ineligible for such state financial aid for a period not less than the time of such suspension.

The governing authority of the university, college, or other institution of higher education shall, for purposes of this section, cause to be reviewed the record of each recipient and shall, as soon as practicable, notify a hearing board established by it of the name of any recipient who committed any such act and was arrested and convicted of any such public offense, or is found to have willfully and knowingly disrupted the orderly operation of the campus, or has been suspended from an institution of higher education for such acts.

43401. Upon receipt of notice, as provided in Section 43400 that any recipient has committed any act likely to disrupt the peaceful conduct of the activities of the campus and was convicted of a public offense in connection therewith, or is found to have willfully and knowingly disrupted the orderly operation of the campus, or has been suspended from an institution of higher education for such acts, the hearing board shall immediately give the recipient written notice of the report. The notice shall inform the recipient of the pendency of the proceedings for the suspension of assistance. It shall inform the recipient that he may present evidence of mitigating

circumstances to the hearing board within 14 calendar days of the date of the mailing of the notice, and shall specify the procedures and means by which such evidence is to be presented, including the date at which any hearing to be afforded him is to be held. The hearing board may prescribe any procedures and means for such purposes which it may deem appropriate, provided that any hearing which may be afforded the recipient shall not be held sooner than seven days after the date of the mailing of the notice.

If no response to the hearing board's notice is made within the period specified in this section, the hearing board may suspend further assistance to the recipient and the suspension shall remain in effect not to exceed the ensuing two academic years.

After the conclusion of proceedings provided for in this section, the hearing board shall, by majority vote, determine whether further assistance to the recipient shall be suspended. If the recipient was arrested and convicted of a public offense arising from campus disruption, the suspension may remain in effect for a period not to exceed the ensuing two academic years. If the recipient is found by the hearing board to have willfully and knowingly disrupted the orderly operation of the campus, but has not been arrested and convicted, the hearing board may suspend further assistance to the recipient for such period as the hearing board may determine not to exceed the ensuing two academic years. If the recipient was suspended from an institution of higher education for such acts, the hearing board shall suspend further assistance to the recipient for a period not less than the time of such suspension. The findings of the hearing board shall be in writing.

The hearing board shall notify the appropriate state agencies of any suspension of state financial aid pursuant to this section, and no state financial aid shall be extended to the recipient during such period.

Any notice required to be made by this section shall be sufficient when it is deposited in the United States registered or certified mail, postage paid, addressed to the last known address of the addressee.

43402. Nothing in this chapter shall be construed to prohibit any public or private university, college, or other institution of higher education from suspending or refusing to grant scholarships, loans, fellowships, grants-in-aid, or any other financial aid given or guaranteed by the state for academic assistance to any individual because of any other misconduct which in its judgment bears adversely on his fitness for such assistance.

43403. For the purposes of this chapter, "state financial aid" means any assistance given or guaranteed by the state which is predicated on attendance at an institution of higher education.

CHAPTER 1271

An act to add Title 1.6 (commencing with Section 1785.1) to Part 4 of Division 3 of the Civil Code, and to repeal Title 1.6 (commencing with Section 1785.1) of Part 4 of Division 3 of the Civil Code, relating to consumer reporting.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Title 1.6 (commencing with Section 1785.1) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.6. CONSUMER CREDIT REPORTING AGENCIES ACT

CHAPTER 1. GENERAL PROVISIONS

1785.1. The Legislature finds and declares as follows:

(a) An elaborate mechanism has been developed for investigating and evaluating the credit worthiness, credit standing, credit capacity, and general reputation of consumers.

(b) Consumer credit reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.

(c) There is a need to insure that consumer credit reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

(d) It is the purpose of this title to require that consumer credit reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.

(e) The Legislature hereby intends to regulate consumer credit reporting agencies pursuant to this title in a manner which will best protect the interests of the people of the State of California.

1785.2. This act may be referred to as the Consumer Credit Reporting Agencies Act.

1785.3. The following terms as used in this title have the meaning expressed in this section·

(a) The term "person" means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(b) The term "consumer" means a natural individual.

(c) The term "consumer credit report" means any written, oral,

or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, or credit capacity, which is used or is expected to be used, or collected in whole or in part, for the purpose of serving as a factor in establishing the consumer's eligibility for: (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized in Section 1785.11.

The term does not include: (1) any report containing information solely as to transactions or experiences between the consumer and the person making the report, or (2) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device, or (3) any report by a person conveying a decision whether to make a specific extension of credit directly or indirectly to a consumer in response to a request by a third party, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under Section 1785.20, or (4) any report containing information solely on a consumer's character, general reputation, personal characteristics, or mode of living which is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on, or others with whom he is acquainted or who may have knowledge concerning any such items of information.

(d) The term "consumer credit reporting agency" means any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, but does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes.

(e) The term "file" when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by a consumer credit reporting agency regardless of how the information is stored.

(f) The term "employment purposes", when used in connection with a consumer credit report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

1785.4. Nothing in this title shall apply to any person licensed pursuant to the provisions of Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or to any employee of such person, unless such person is employed directly by a consumer credit reporting agency.

CHAPTER 2. OBLIGATIONS OF CONSUMER CREDIT REPORTING AGENCIES

1785.10. Every consumer credit reporting agency shall, upon request and proper identification of any consumer, allow the consumer to visually inspect all files maintained regarding such consumer at the time of the request.

(a) All items of information shall be available for inspection, including the sources of information.

(b) The consumer credit reporting agency shall also disclose the recipients of any consumer credit report on the consumer which the consumer credit reporting agency has furnished:

(1) For employment purposes within the two-year period preceding the request.

(2) For any other purpose within the six-month period preceding the request.

1785.11. A consumer credit reporting agency shall only furnish a consumer credit report under the following circumstances:

(a) In response to the order of a court having jurisdiction to issue such an order.

(b) In compliance with a lawful subpoena issued by a court of competent jurisdiction.

(c) In accordance with the written instructions of the consumer to whom it relates.

(d) To a person which it has reason to believe:

(1) Intends to use the information in connection with a credit transaction, or entering or enforcing an order of a court of competent jurisdiction for support, involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

(2) Intends to use the information for employment purposes; or

(3) Intends to use the information in connection with the underwriting of insurance involving the consumer, the rate for such insurance, or for insurance claims settlements; or

(4) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider the applicant's financial responsibility or status; or

(5) Otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

1785.12. Notwithstanding the provisions of Section 1785.11, a consumer credit reporting agency may furnish to a governmental agency a consumer's name, address, former address, places of employment, or former places of employment.

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 14 years.

(2) Suits from the date of filing and paid judgments which from the date of entry antedate the report by more than seven years.

(3) Unpaid judgments which, from the date of entry, antedate the report by more than 10 years.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. Such items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) The provisions of subdivision (a) are not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

1785.14. (a) Every consumer credit reporting agency shall maintain reasonable procedures designed to avoid violations of Section 1785.13 and to limit furnishing of consumer credit reports to the purposes listed under Section 1785.11. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought and certify that the information will be used for no other purposes. From the effective date of this act the consumer credit reporting agency shall keep a record of the purposes as stated by the user. Every consumer credit reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer credit reporting agency may furnish a consumer credit report to any person unless it has reasonable grounds for believing that the consumer credit report will be used by such person for purposes listed in Section 1785.11.

(b) Whenever a consumer credit reporting agency prepares a consumer credit report, it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

1785.15. (a) A consumer credit reporting agency shall supply files and information required under Section 1785.10 during normal business hours and on reasonable notice.

(b) Files maintained on a consumer shall be made available for the consumer's visual inspection, as follows:

(1) In person, if he appears in person and furnishes proper identification. A copy of his file shall also be available to the consumer for a fee.

(2) By mail, if he makes a written request, with proper identification, for copies to be sent to a specified addressee, and pays a fee sufficient to cover costs of reproduction. Consumer credit reporting agencies complying with requests for mailings under this section shall not be liable for disclosures to third parties caused by mishandling of mail after such mailings leave the consumer credit reporting agencies.

(3) A summary of all information contained in files on a consumer and required to be provided by Section 1785.10 shall be provided by telephone, if the consumer has made a written request, with proper identification for telephone disclosure, and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

(c) The term "proper identification" as used in subdivision (b) shall mean that information generally deemed sufficient to identify a person. Such information includes documents such as a valid driver's license, social security account number, military identification card, and credit cards. Only if the consumer is unable to reasonably identify himself with the information described above, may a consumer credit reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his identity.

(d) The consumer credit reporting agency shall provide trained personnel to explain to the consumer any information furnished him pursuant to Section 1785.10.

(e) The consumer credit reporting agency shall provide a written explanation of any coded information contained in files maintained on a consumer. This written explanation shall be distributed whenever a file is provided to a consumer for visual inspection as required under Section 1785.15.

(f) The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A consumer credit reporting agency may require the consumer to furnish a written statement granting permission to the consumer credit reporting agency to discuss the consumer's file in such person's presence.

1785.16. (a) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and such dispute is conveyed directly to the consumer credit reporting agency by the consumer, the consumer credit reporting agency shall within a reasonable period of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe

that the dispute by the consumer is frivolous or irrelevant. If the consumer credit reporting agency determines that the dispute is frivolous or irrelevant, it shall notify the consumer in writing within five days after such determination is made that it will not reinvestigate the item of information. In this notification, the consumer credit reporting agency shall state the specific reasons why it has determined that the consumer's dispute is frivolous or irrelevant. If a reinvestigation is made and, after reinvestigation, the disputed item of information is found to be inaccurate or can no longer be verified, the consumer credit reporting agency shall promptly delete such information from the consumer's file and shall notify the consumer that such information has been deleted. The presence of information in the consumer's file that contradicts the contention of the consumer shall not, in and of itself, constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

(b) If the consumer credit reporting agency determines that the dispute is frivolous or irrelevant, or if the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer credit reporting agency may limit such statements to not more than 100 words if it provides the consumer with assistance in writing a clear summary of the dispute.

(c) Whenever a statement of dispute is filed, the consumer credit reporting agency shall, in any subsequent consumer credit report containing the information in question, clearly note that the information is disputed by the consumer and shall include in the report either the consumer's statement or a clear and accurate summary thereof.

(d) Following the deletion of information from a consumer's file pursuant to subdivision (a), or following the filing of a dispute pursuant to subdivision (b), the consumer credit reporting agency shall, at the request of the consumer, furnish notification that the item of information has been deleted or that the item of information is disputed. In the case of disputed information, the notification shall include the statement or summary of the dispute filed pursuant to subdivision (b). Such notification shall be furnished to any person, specifically designated by the consumer, who has, within two years prior to the deletion or the filing of the dispute, received a consumer credit report concerning the consumer for employment purposes, or who has, within six months of the deletion or the filing of the dispute, received a consumer credit report concerning the consumer for any other purpose, if such consumer credit reports contained the deleted or disputed information. The consumer credit reporting agency shall clearly and conspicuously disclose to the consumer his rights to make a request for notification. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

1785.17. A consumer credit reporting agency shall make all

disclosures pursuant to Sections 1785.10 and 1785.15 and furnish all consumer reports pursuant to Section 1785.16 without charge to the consumer if, within 30 days after receipt by such consumer of a notification pursuant to Section 1785.20 or notification from a debt collection agency affiliated with such consumer credit reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under Section 1785.15 or 1785.16. Otherwise, the consumer credit reporting agency may impose a reasonable charge on the consumer for making disclosure to such consumer pursuant to Section 1785.15, the charge for which shall be indicated to the consumer prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to persons designated by the consumer pursuant to Section 1785.16, the charge for which shall be indicated to the consumer prior to furnishing such information and shall not exceed the charge that the consumer credit reporting agency would impose on each designated recipient for a consumer report except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified.

1785.18. (a) Each consumer credit reporting agency which compiles and reports items for information concerning consumers which are matters of public record shall specify in any report containing public record information the source from which such information was obtained, including the particular court, if there be such, and the date that such information was initially reported or publicized.

(b) A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall in addition maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

CHAPTER 3. REQUIREMENTS ON USERS OF CONSUMER CREDIT REPORTS

1785 20. (a) Whenever credit or insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer credit report from a consumer credit reporting agency, the user of the consumer credit report shall so advise the consumer against

whom such adverse action has been taken and supply the name and address or addresses of the consumer credit reporting agency making the report.

(b) Whenever credit or insurance for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or in part because of information obtained from a person other than a consumer credit reporting agency bearing upon consumer's credit worthiness or credit standing, the user of such information shall, within a reasonable period of time, and upon the consumer's written request for the reasons for such adverse action received within 60 days after learning of such adverse action, disclose the nature and substance of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

(c) No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of subdivisions (a) and (b) of this section.

CHAPTER 4. REMEDIES

1785.30. (a) Any consumer credit reporting agency or user of information which negligently fails to comply with any requirement under this title with respect to a consumer credit report is liable to the consumer who is the subject of the report in an amount equal to the sum of all the following:

(1) Any actual damages sustained by the consumer as a result of the failure or, except in the case of class actions, three hundred dollars ($300), whichever sum is greater, and

(2) In the case of any successful action to enforce any liability under this title, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) If the court determines that the violation was grossly negligent or willful, the court may, in addition, assess, and the consumer may recover punitive damages.

(c) Notwithstanding subdivision (a), a consumer credit reporting agency or user of information which fails to comply with any requirement under this title with respect to a consumer credit report shall not be liable to a consumer who is the subject of the report where the failure to comply results in a more favorable consumer credit report than if there had not been a failure to comply.

1785.31. "Except as provided in Section 1785.30, no consumer may bring any action or proceeding in the nature of defamation, invasion of privacy or negligence with respect to the reporting of information against any consumer reporting agency, any user of information, or any person who furnishes information to a consumer

reporting agency, based on information disclosed pursuant to Section 1785.10, 1785.15 or 1785.20 of this title, except as to false information furnished with malice or willful intent to injure such consumer.

1785.32. An action to enforce any liability created under this chapter may be brought in any appropriate court of competent jurisdiction within two years from the date on which the liability arises except that where a defendant has materially and willfully misrepresented any information required under this chapter to be disclosed to a consumer and the information so misrepresented is material to the establishment of the defendant's liability to the consumer under this chapter, the action may be brought at any time within two years after the discovery by the consumer of the misrepresentation.

1785.33. (a) Any consumer credit reporting agency or user of information against whom an action brought pursuant to Section 1681n or 1681o of Title 15 of the United States Code is pending shall not be subject to suit for the same act or omission under Section 1785.30.

(b) The entry of a final judgment against a consumer credit reporting agency or user of information in an action brought pursuant to the provisions of Section 1681n or 1681o of Title 15 of the United States Code shall be a bar to the maintenance of any action based on the same act or omission which might be brought under this chapter.

1785.34. This title does not apply to any consumer credit report which by its terms is limited to disclosures from public records relating to land and land titles and does not apply to any person whose records and files are maintained for the primary purpose of reporting those portions of the public records which impart constructive notice under the law of matters relating to land and land titles.

SEC. 2. Title 1.6 (commencing with Section 1785.1) of Part 4 of Division 3 of the Civil Code is repealed.

CHAPTER 1272

An act to add Title 1.6A (commencing with Section 1786) to Part 4 of Division 3 of the Civil Code, relating to consumer reporting.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975.]

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

SECTION 1. Title 1.6A (commencing with Section 1786) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.6A. INVESTIGATIVE CONSUMER REPORTING AGENCIES

Article 1. General Provisions

1786. The Legislature finds and declares as follows:

(a) Investigative consumer reporting agencies have assumed a vital role in assembling and evaluating information on consumers for employment and insurance purposes.

(b) There is a need to insure that investigative consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer's right to privacy.

(c) It is the purpose of this title to require that investigative consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for employment and insurance information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.

(d) The Legislature hereby intends to regulate investigative consumer reporting agencies pursuant to this title in a manner which will best protect the interests of the people of the State of California.

1786.1. This title may be referred to as the Investigative Consumer Reporting Agencies Act.

1786.2. The following terms as used in this title have the meaning expressed in this section:

(a) The term 'person" means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(b) The term "consumer" means a natural individual who has made application to a person for employment purposes or insurance for personal, family, or household purposes.

(c) The term "investigative consumer report" means a consumer report in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on, or others with whom he is acquainted or who may have knowledge concerning any such items of information. Such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

(d) The term "investigative consumer reporting agency" means any person who, for monetary fees or dues, regularly engages in whole or in part in the practice of assembling or evaluating employment or insurance information, or both, concerning consumers for personal, family, or household purposes, for the purposes of furnishing investigative consumer reports to third

parties, to be used with respect to consumers for employment purposes or insurance primarily for personal, family, or household purposes, but does not include any governmental agency whose records are maintained primarily for traffic safety, law enforcement, or licensing purposes, or a private investigator licensed in this state or employees of such a private investigator.

(e) The term "file" when used in connection with information on any consumer, means all of the information on that consumer recorded and retained by an investigative consumer reporting agency regardless of how the information is stored.

(f) The term "employment purposes", when used in connection with an investigative consumer report, means a report used for the purpose of evaluating a consumer for employment, promotion, reassignment, or retention as an employee.

(g) The term "medical information" means information on a person's medical history or condition obtained directly from such person or another person related to such person and acting on his behalf by an application, or questionnaire, or by a similar means, or obtained directly or indirectly from a licensed physician, medical practitioner, hospital, clinic, or other medical or medically related facility.

Article 2. Obligations of Investigative Consumer Reporting Agencies

1786.10. Every investigative consumer reporting agency shall, upon request and proper identification of any consumer, allow the consumer to visually inspect all files maintained regarding such consumer at the time of the request, except that medical information, as defined in subdivision (g) of Section 1786.2 may be withheld. The consumer shall be informed by the investigative consumer reporting agency of the existence of any such medical information withheld and shall have a right to visually inspect such information upon written authorization from the consumer's attending physician. The investigative credit reporting agency shall inform the consumer of the consumer's right to visually inspect such withheld information at the time the consumer makes a request to inspect all files pursuant to this section.

(a) All items of information shall be available for inspection, except that the sources of information need not be disclosed. However, in the event an action is brought under this title such sources shall be available to the consumer under appropriate discovery procedures in the court in which the action is brought.

Nothing in this title shall be interpreted to mean that investigative consumer reporting agencies are required to divulge to consumers the sources of investigative consumer reports except in appropriate discovery procedures as outlined herein.

(b) The investigative consumer reporting agency shall also disclose the recipients of any investigative consumer report on the

consumer which the investigative consumer reporting agency has furnished:

(1) For employment or insurance purposes within the two-year period preceding the request.

(2) For any other purpose within the six-month period preceding the request.

1786.12. An investigative consumer reporting agency shall only furnish an investigative consumer report under the following circumstances:

(a) In response to the order of a court having jurisdiction to issue such an order.

(b) In compliance with a lawful subpoena issued by a court of competent jurisdiction.

(c) In accordance with the written instructions of the consumer to whom it relates.

(d) To a person which it has reason to believe:

(1) Intends to use the information for employment purposes; or

(2) Intends to use the information serving as a factor in determining a consumer's eligibility for insurance, the rate for such insurance, or for insurance claims settlements; or

(3) Intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider the applicant's financial responsibility or status.

(4) Intends to use the information in connection with an order of a court of competent jurisdiction to provide support where the imposition or enforcement of the order involves the consumer.

1786.14. Notwithstanding the provisions of Section 1786.12 an investigative consumer reporting agency may furnish to a governmental agency a consumer's name, address, former address, places of employment, or former places of employment.

1786.16. A person shall not procure or cause to be prepared an investigative consumer report unless all of the following conditions are met:

(a) If an investigative consumer report may be sought in connection with the underwriting of insurance, it shall be clearly and accurately disclosed in writing on the application form, binder, or similar document signed by the consumer that an investigative consumer report regarding the consumer's character, general reputation, personal characteristics, and mode of living may be made. If no signed application form, binder, or similar document is involved in the underwriting transaction, such disclosure shall be made to the consumer in a writing mailed or otherwise delivered to the consumer not later than three days after the report was first requested.

(b) If, at any time, an investigative consumer report is sought in conjunction with an application for employment purposes, the person procuring or causing the report to be made shall, not later than three days after the date on which the report was first

requested, notify the consumer in writing that an investigative consumer report regarding the consumer's character, general reputation, personal characteristics, and mode of living will be made. This notification shall include the name of the consumer reporting agency conducting the investigation and a summary of the provisions of Section 1786.22.

(c) The provisions of subdivision (b) shall not apply to an investigative consumer report procured by an employer solely for the purpose of determining whether a person currently in his employ is engaged in any criminal activity likely to result in a loss to the employer.

1786.18. (a) Except as authorized under subdivision (b) no investigative consumer reporting agency shall make any investigative consumer report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 14 years.

(2) Suits from the date of filing and paid judgments which from the date of entry antedate the report by more than seven years.

(3) Unpaid judgments which, from the date of entry, antedate the report by more than 10 years.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. Such items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result, except that records of arrest, indictment, and information misdemeanor complaints may be reported pending pronouncement of judgment on the particular matter subject of such records.

(7) Any other adverse information which antedates the report by more than seven years.

(b) The provisions of subdivision (a) are not applicable in the case of any consumer report to be used in the following transactions:

(1) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(2) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

1786.20. (a) Every investigative consumer reporting agency shall maintain reasonable procedures designed to avoid violations of Section 1786.18 and to limit furnishing of investigative consumer reports to the purposes listed under Section 1786.12. These

procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought and certify that the information will be used for no other purposes. From the effective date of this title the investigative consumer reporting agency shall keep a record of the purposes as stated by the user. Every investigative consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user any consumer reports. No investigative consumer reporting agency may furnish any investigative consumer reports to any person unless it has reasonable grounds for believing that the investigative consumer reports will be used by such person for purposes listed in Section 1786.12.

(b) Whenever an investigative consumer reporting agency prepares an investigative consumer report, it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

1786.22. (a) An investigative consumer reporting agency shall supply files and information required under Section 1786.10 during normal business hours and on reasonable notice.

(b) Files maintained on a consumer shall be made available for the consumer's visual inspection, as follows:

(1) In person, if he appears in person and furnishes proper identification. A copy of his file shall also be available to the consumer for a fee.

(2) By certified mail, if he makes a written request, with proper identification, for copies to be sent to a specified addressee. Investigative consumer reporting agencies complying with requests for certified mailings under this section shall not be liable for disclosures to third parties caused by mishandling of mail after such mailings leave the investigative consumer reporting agencies.

(3) A summary of all information contained in files on a consumer and required to be provided by Section 1786.10 shall be provided by telephone, if the consumer has made a written request, with proper identification for telephone disclosure, and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.

(c) The term "proper identification" as used in subdivision (b) shall mean that information generally deemed sufficient to identify a person. Such information includes documents such as a valid driver's license, social security account number, military identification card, and credit cards. Only if the consumer is unable to reasonably identify himself with the information described above, may an investigative consumer reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his identity.

(d) The investigative consumer reporting agency shall provide trained personnel to explain to the consumer any information furnished him pursuant to Section 1786.10.

(e) The investigative consumer reporting agency shall provide a

written explanation of any coded information contained in files maintained on a consumer. This written explanation shall be distributed whenever a file is provided to a consumer for visual inspection as required under Section 1786.22.

(f) The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. An investigative consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.

1786.24. (a) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and such dispute is conveyed directly to the investigative consumer reporting agency by the consumer, the investigative consumer reporting agency shall within a reasonable period of time reinvestigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If the investigative consumer reporting agency determines that the dispute is frivolous or irrelevant, it shall notify the consumer in writing within five days after such determination is made that it will not reinvestigate the item of information. In this notification, the investigative consumer reporting agency shall state the specific reasons why it has determined that the consumer's dispute is frivolous or irrelevant. If a reinvestigation is made and, after reinvestigation, the disputed item of information is found to be inaccurate or can no longer be verified, the investigative consumer reporting agency shall promptly delete such information from the consumer's file and shall notify the consumer that such information has been deleted. The presence of information in the consumer's file that contradicts the contention of the consumer shall not, in and of itself, constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

(b) If the investigative consumer reporting agency determines that the dispute is frivolous or irrelevant, or if the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The investigative consumer reporting agency may limit such statements to not more than 100 words if it provides the consumer with assistance in writing a clear summary of the dispute.

(c) Whenever a statement of dispute is filed, the investigative consumer reporting agency shall, in any subsequent investigative consumer report containing the information in question, clearly note that the information is disputed by the consumer and shall include in the report either the consumer's statement or a clear and accurate summary thereof.

(d) Following the deletion of information from a consumer's file pursuant to subdivision (a), or following the filing of a dispute pursuant to subdivision (b), the investigative consumer reporting agency shall, at the request of the consumer, furnish notification that

the item of information has been deleted or that the item of information is disputed. In the case of disputed information, the notification shall include the statement or summary of the dispute filed pursuant to subdivision (b). Such notification shall be furnished to any person, specifically designated by the consumer, who has, within two years prior to the deletion or the filing of the dispute, received an investigative consumer report concerning the consumer for employment purposes, or who has, within six months of the deletion or the filing of the dispute, received an investigative consumer report concerning the consumer for any other purpose, if such investigative consumer reports contained the deleted or disputed information. The investigative consumer reporting agency shall clearly and conspicuously disclose to the consumer his rights to make a request for notification. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

1786.26. An investigative consumer reporting agency shall make all disclosures pursuant to Sections 1786.10 and 1786.22 and furnish all consumer reports pursuant to Section 1786.24 without charge to the consumer if, within 30 days after receipt by such consumer of a notification pursuant to Section 1786.40 stating that adverse action may be or has been taken on the consumer, the consumer makes a request under Section 1786.27 or 1786.24. Otherwise, the investigative consumer reporting agency may impose a reasonable charge on the consumer for making disclosure to such consumer pursuant to Section 1786.22 as it relates to providing a copy of the report to the consumer, the charge for which shall be indicated to the consumer prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to person designated by the consumer pursuant to Section 1786.24 the charge for which shall be indicated to the consumer prior to furnishing such information and shall not exceed the charge that the investigative consumer reporting agency would impose on each designated recipient for a consumer report except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified.

1786.28. (a) Each investigative consumer reporting agency which compiles and reports items of information concerning consumers which are matters of public record shall specify in any report containing public record information the source from which such information was obtained, including the particular court, if there be such, and the date that such information was initially reported or publicized.

(b) A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall in addition maintain strict procedures designed to insure that whenever public record

information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

1786.30. Whenever an investigative consumer reporting agency prepares an investigative consumer report, no adverse information in the report (other than information which is a matter of public record, the status of which has been updated pursuant to Section 1786.28 may be included in a subsequent investigative consumer report unless such adverse information has been verified in the process of making such subsequent consumer report, or the adverse information was received within the three-month period preceding the date the subsequent report is furnished.

Article 3. Requirements on Users of Investigative Consumer Reports

1786.40. (a) Whenever insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such insurance is increased either wholly or partly because of information contained in an investigative consumer report from an investigative consumer reporting agency, the user of the investigative consumer report shall so advise the consumer against whom such adverse action has been taken and supply the name and address of the investigative consumer reporting agency making the report.

(b) Whenever insurance for personal, family, or household purposes involving a consumer is denied or the charge for such insurance is increased either wholly or in part because of information obtained from a person other than an investigative consumer reporting agency bearing upon the consumer's general reputation, personal characteristics or mode of living, the user of such information shall, within a reasonable period of time, and upon the consumer's written request for the reasons for such adverse action received within 60 days after learning of such adverse action, disclose the nature and substance of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer. The user may withhold the substance of such medical information, as defined in subdivision (g) of Section 1786.2, but shall inform the consumer of the existence of any such medical information withheld. The consumer shall have a right to be informed in writing of the substance of such information upon written authorization from the consumer's attending physician. The user shall inform the consumer of the consumer's right to be informed in writing of the substance of such withheld information at the time of disclosure pursuant to this subdivision.

Article 4. Remedies

1786.50. (a) Any investigative consumer reporting agency or user of information which fails to comply with any requirement under this title with respect to an investigative consumer report is liable to the consumer who is the subject of the report in an amount equal to the sum of all the following:

(1) Any actual damages sustained by the consumer as a result of the failure or, except in the case of class actions, three hundred dollars ($300), whichever sum is greater, and

(2) In the case of any successful action to enforce any liability under this chapter, the costs of the action together with reasonable attorney's fees as determined by the court.

(b) If the court determines that the violation was grossly negligent or willful, the court may, in addition, assess, and the consumer may recover punitive damages.

(c) Notwithstanding subdivision (a), an investigative consumer reporting agency or user of information which fails to comply with any requirement under this title with respect to an investigative consumer report shall not be liable to a consumer who is the subject of the report where the failure to comply results in a more favorable investigative consumer report than if there had not been a failure to comply.

1786.52. Nothing in this chapter shall in any way affect the right of any consumer to maintain an action against an investigative consumer reporting agency, a user of an investigative consumer report, or an informant for invasion of privacy or defamation.

An action to enforce any liability created under this title may be brought in any appropriate court of competent jurisdiction within two years from the date on which the liability arises except that where a defendant has materially and willfully misrepresented any information required under this title to be disclosed to a consumer and the information so misrepresented is material to the establishment of the defendant's liability to the consumer under this title the action may be brought at any time within two years after the discovery by the consumer of the misrepresentation.

(a) Any investigative consumer reporting agency or user of information against whom an action brought pursuant to Section 1681n or 1681o of Title 15 of the United States Code is pending shall not be subject to suit for the same act or omission under Section 1786.50.

(b) The entry of a final judgment against the investigative consumer reporting agency or user of information in an action brought pursuant to the provisions of Section 1681n or 1681o of Title 15 of the United States Code shall be a bar to the maintenance of any action based on the same act or omission which might be brought under this title.

1786.54. This title does not apply to any investigative consumer report which by its terms is limited to disclosures from public records relating to land and land titles or which is a report issued preliminary to the issuance of a policy of title insurance, and it does not apply to any person whose records are maintained for the primary purpose of reporting those portions of public records which impart constructive notice under the law of matters relating to land and land titles and which may be issued as the basis for the issuance of a policy of title insurance.

1786.56. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 1273

An act to amend Section 18613 of, and to add Section 18056.1 to, the Health and Safety Code, relating to inspection of mobilehomes.

[Approved by Governor October 1, 1975. Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 18056.1 is added to the Health and Safety Code, to read:

18056.1. The commission shall adopt such regulations for the inspection of mobilehomes under construction as it determines are reasonably necessary to assure compliance with this part and the regulations promulgated under this part. Such regulations shall include the inspection of the construction, assembly, and installation of parts and components which will subsequently be enclosed within the floor, walls, ceiling, or roof of the mobilehome.

An insignia of approval shall not be affixed to any new mobilehome unless such mobilehome has been inspected by the department while under construction pursuant to the regulations of the commission under this section.

SEC. 2. Section 18613 of the Health and Safety Code is amended to read:

18613. On and after July 1, 1974, a permit shall be obtained from the enforcement agency each time a mobilehome, which is required to be moved under a permit, is to be located or installed on any site for the purpose of human habitation or occupancy as a dwelling.

The contractor engaged to install the mobilehome shall obtain the permit, except when the owner of the mobilehome proposes to perform the installation. When a contractor applies for a permit to install a mobilehome, he shall display a valid contractor's license. The

contractor shall complete the installation of the mobilehome in accordance with the regulations adopted by the commission within the time limitations which shall be established by regulations of the commission. Such time limitations shall allow contractors a reasonable amount of time within which to complete mobilehome installations. If inspection of the mobilehome installation by the enforcement agency determines that the mobilehome cannot be approved for occupancy due to defective material, systems, workmanship, or equipment of the mobilehome, the contractor shall be allowed a reasonable amount of time, as determined by regulations of the commission, to complete the installation after the defects in the mobilehome have been corrected. The enforcement agency shall immediately notify the department whenever any mobilehome cannot be approved for occupancy due to defects of the mobilehome. The report of notification shall indicate health and safety defects and, in the case of new mobilehomes, substantial defects of materials and workmanship. For purposes of this section, "substantial defects of materials and workmanship" means defects objectively manifested by broken, ripped, cracked, stained, or missing parts or components and shall not include alleged defects concerning color combinations or grade of materials used. If the mobilehome fails the installation inspection because of conditions which do not endanger the health or safety of the occupant, the owner may occupy the mobilehome. If, however, the installation fails inspection due to immediate hazards to the health or safety of the occupant, as determined by the enforcement agency, the mobilehome shall not be occupied.

The commission shall adopt regulations for such installations. The regulations adopted by the commission pursuant to this section shall establish such requirements as the commission determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section. In promulgating regulations pursuant to this section, the commission shall consider reassembly of the mobilehome, stabilizing devices and load-bearing supports, and utility connections and connectors.

The commission shall establish a schedule of fees for the permits required by this section commensurate with the cost of the enforcement of this section and the regulations adopted pursuant thereto. Where a city, county, or city and county is responsible for such enforcement, such a city, county, or city and county may establish a schedule of fees commensurate with the cost of enforcement. The fee for an installation permit shall in no case exceed forty dollars ($40). If, however, the mobilehome cannot be approved for occupancy when inspected, a reinspection fee not to exceed thirty dollars ($30) may be required. Permit fees and reinspection fees shall be paid to the enforcement agency by the permittee.

This section does not apply to recreational vehicles or commercial coaches.

CHAPTER 1274

An act to amend Sections 1026, 1026a, 1370 and 1374 of, and to add Sections 1026.1 and 1370.3 to, the Penal Code, and to amend Sections 6316, 6317, 6318, 6319, 6321, 6322, 6323, 6324, 6325, 6327, 6328, 6330, and 7375 of, and to add Sections 5402.1, 5710.1, and 6325.1 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 1026 of the Penal Code is amended to read:

1026. When a defendant pleads not guilty by reason of insanity, and also joins with it another plea or pleas, he shall first be tried as if he had entered such other plea or pleas only, and in such trial he shall be conclusively presumed to have been sane at the time the offense is alleged to have been committed. If the jury shall find the defendant guilty, or if the defendant pleads only not guilty by reason of insanity, then the question whether the defendant was sane or insane at the time the offense was committed shall be promptly tried, either before the same jury or before a new jury in the discretion of the court. In such trial the jury shall return a verdict either that the defendant was sane at the time the offense was committed or that he was insane at the time the offense was committed. If the verdict or finding be that the defendant was sane at the time the offense was committed, the court shall sentence the defendant as provided by law. If the verdict or finding be that the defendant was insane at the time the offense was committed, the court unless it shall appear to the court that the defendant has fully recovered his sanity shall direct that the defendant be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the county mental health director, or the court may order the defendant to undergo outpatient treatment as specified in Section 1026.1 of the Penal Code. The court shall transmit a copy of its order to the county mental health director or his designee. If the defendant has been found guilty of murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in the first degree or in which the victim suffers great bodily injury, a violation of Section 447a of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.2, 12303.3, 12308, 12309, or 12310 of the Penal Code, or if the defendant

has been found guilty of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, the court shall direct that the defendant be confined in a state hospital or other public or private mental health facility approved by the county mental health director for a minimum of 90 days before such defendant may be released on outpatient treatment pursuant to subdivision (c) of Section 7375 of the Welfare and Institutions Code. Prior to making such order directing that the defendant be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the county mental health director or his designee to evaluate the defendant and to submit to the court within 15 judicial days of such order his written recommendation as to whether the defendant should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. If, however, it shall appear to the court that the defendant has fully recovered his sanity such defendant shall be remanded to the custody of the sheriff until his sanity shall have been finally determined in the manner prescribed by law. A defendant committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him shall, after notice and hearing, find and determine that his sanity has been restored. Nothing in this section contained shall prevent the transfer of such person from one state hospital to any other state hospital by proper authority nor the transfer of such patient to a hospital in another state in the manner provided by law, upon order of the superior court in the county from which he was committed, or in which he is detained.

If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the superintendent of the state hospital and the county mental health director that the defendant be transferred to a public or private mental health facility approved by the county mental health director, order the defendant transferred to such facility. If the defendant is committed or transferred to a public or private mental health facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, transfer the defendant to a state hospital or to another public or private mental health facility approved by the county mental health director. The defendant or prosecuting attorney, if he chooses to contest either kind of order of transfer, may petition the court for a hearing which shall be held if the court determines that sufficient grounds exist. At such hearing the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant,

the prosecuting attorney, and the county mental health director or his designee.

SEC. 2. Section 1026a of the Penal Code is amended to read:

1026a. An application for the release of a person who has been committed to a state hospital or other facility, as provided in Section 1026, upon the ground that his sanity has been restored, may be made to the superior court of the county from which he was committed, either by such person or by the superintendent of the state hospital or other facility in which the said person is confined. The person or the superintendent in charge of the state hospital or other facility shall transmit a copy of the application to the county mental health director or his designee. No hearing upon such application shall be allowed until the person committed shall have been confined or placed on outpatient treatment for a period of not less than 90 days from the date of the order of commitment. If the finding of the court be adverse to releasing such person upon his application for release, on the ground that his sanity has not been restored, he shall not be permitted to file a further application until one year has elapsed from the date of hearing upon his last preceding application. In any hearing authorized by this section the burden of proving that his sanity has been restored shall be upon the applicant.

SEC. 3. Section 1026.1 is added to the Penal Code, to read:

1026.1. (a) If the county mental health director, or his designee, is of the opinion that the defendant is not a danger to the health and safety of others while on outpatient treatment and will benefit from outpatient treatment, he may allow the defendant to be treated as an outpatient. An announcement of intent to place the defendant on outpatient status shall be filed with the court of commitment and served upon the prosecuting attorney and the defendant's attorney of record at least 15 days in advance of the change in status. The court may hold a hearing and (1) approve or disapprove of the plan or (2) take no action, in which case the plan shall be deemed to have been approved. At the request of the prosecuting attorney a hearing shall be held. Prior to filing such announcement of intent the county mental health director, or his designee, shall obtain the agreement of the person in charge of a mental health facility and of the defendant that the defendant will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant. At 90-day intervals following the beginning of outpatient treatment, the outpatient supervisor shall make a report in writing to the court, the prosecuting attorney and the attorney of record for the defendant setting forth the status and progress of the defendant. The maximum period of such treatment shall not exceed one year. The court may at the end of such maximum period renew its approval for additional outpatient treatment upon the request of the county mental health director or his designee.

(b) When the outpatient supervisor is of the opinion that the defendant has regained his sanity the supervisor shall communicate

such opinion to the person in charge of the facility. If the person in charge of the facility concurs, he shall submit an application for release pursuant to Penal Code Section 1026a.

(c) If at any time during an outpatient treatment period the outpatient supervisor is of the opinion that the defendant requires extended inpatient treatment or refuses to accept further outpatient treatment, he shall communicate such opinion or refusal to the person in charge of the facility. If the person in charge of the facility concurs, he shall notify the committing court, the prosecuting attorney, the attorney of record for the defendant, and the county mental health director or his designee of his intent to transfer the defendant to a state hospital or any other public or private mental health facility approved by the county mental health director. Within 15 judicial days, the court shall (1) approve or disapprove of the transfer or (2) take no action, in which case the transfer shall be deemed approved. Such transfer shall be reviewable by a writ of habeas corpus only. If a verified petition for a writ alleges on its face facts sufficient to justify relief, an order to show cause shall issue.

(d) If at any time during an outpatient treatment period the prosecuting attorney is of the opinion that the defendant is a danger to the health and safety of others while on outpatient treatment, he may petition the court for a hearing to determine whether the defendant shall be continued on outpatient treatment. The court shall calendar the case for further proceedings and the clerk shall notify the defendant, outpatient supervisor, the attorney of record for the defendant, and the county mental health director or his designee of the calendared date. Upon failure of the defendant to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for such defendant. If, after a hearing in open court conducted with the same standards used in probation revocation hearings pursuant to Section 1203.2 of the Penal Code,, the judge of the committing court determines that the defendant is a danger to the health and safety of others, he shall commit the defendant to a state hospital for the care and treatment of the mentally disordered or to any public or private mental health facility approved by the county mental health director.

The court shall transmit a copy of its order to the county mental health director or his designee. Such order shall be reviewable by a writ of habeas corpus only.

(e) An outpatient who requires inpatient treatment pending judicial determination of his outpatient status pursuant to subdivisions (c) and (d) shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300 of the Welfare and Institutions Code.

The person in charge of the facility in which an outpatient receives inpatient treatment shall notify the county mental health director or his designee of inpatient treatment provided to an outpatient under this section.

SEC. 4. Section 1370 of the Penal Code is amended to read:

1370. (a) If the defendant is found mentally competent, the criminal process shall resume, the trial on the offense charged shall proceed, and judgment may be pronounced. If the defendant is found mentally incompetent, the trial or judgment shall be suspended until he becomes mentally competent, and the court shall order that (1) in the meantime, the defendant be delivered by the sheriff to a state hospital for the care and treatment of the mentally disordered or to any other available public or private mental health treatment facility approved by the county mental health director as will promote the defendant's speedy restoration of mental competence, or be ordered to undergo outpatient treatment as specified in Section 1370.3 and (2) upon his becoming competent, he be redelivered to the sheriff to be returned to court where the criminal process shall resume. The court shall transmit a copy of its order to the county mental health director or his designee.

If the defendant has been charged with murder, mayhem, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery in the first degree or in which the victim suffers great bodily injury, a violation of Section 447a of the Penal Code involving a trailer coach, as defined in Section 635 of the Vehicle Code, or any dwelling house, a violation of subdivision (2) and (3) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.3, 12308, 12309, or 12310 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, the court shall direct that the defendant be confined in a state hospital or other public or private mental health facility approved by the county mental health director for a minimum of 90 days before such defendant may be released on outpatient treatment pursuant to Section 1374. Prior to release on outpatient treatment, such defendant shall be returned to court for a hearing to determine whether the defendant is entitled to be admitted to bail or released upon his own recognizance.

Prior to making such order, the court shall order the county mental health director or his designee to evaluate the defendant and to submit to the court within 15 judicial days of such order his written recommendation as to whether the defendant should be required to undergo outpatient treatment, or committed to a state hospital or to any other mental health facility.

If the defendant is committed or transferred to a state hospital pursuant to this section, the court may, upon receiving the written recommendation of the superintendent of the state hospital and the county mental health director that the defendant be transferred to a public or private mental health facility approved by the county mental health director, order the defendant transferred to such

facility. If the defendant is committed or transferred to a public or private mental health facility approved by the county mental health director, the court may, upon receiving the written recommendation of the county mental health director, transfer the defendant to a state hospital or to another public or private mental health facility approved by the county mental health director. In the event of dismissal of the criminal charges before the defendant recovers competence, the person shall be subject to the applicable provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code). The defendant or prosecuting attorney, if he chooses to contest either kind of order of transfer, may petition the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code.

Prior to making an order for transfer under this section, the court shall notify the defendant, the attorney of record for the defendant, the prosecuting attorney, and the county mental health director or his designee.

(b) (1) Within 90 days of a commitment made pursuant to subdivision (a), the superintendent of the state hospital or other facility to which the defendant is committed or from which the defendant is placed on outpatient treatment shall make a written report to the court and the county mental health director or his designee concerning the defendant's progress toward recovery of his mental competence. If the defendant has not recovered his mental competence, but the report discloses a substantial likelihood the defendant will regain his mental competence in the foreseeable future, he shall remain in the state hospital or other facility or on outpatient treatment. Thereafter, at six-month intervals or until the defendant becomes mentally competent, the superintendent of the hospital or person in charge of the facility shall report to the court and the county mental health director or his designee regarding the defendant's progress toward recovery of his mental competence. If the report indicates that there is no substantial likelihood that the defendant will regain his mental competence in the foreseeable future, the committing court shall order him to be returned to the court for proceedings pursuant to paragraph (2) of subdivision (c). The court shall transmit a copy of its order to the county mental health director or his designee.

(2) If, after the defendant has been committed or has undergone outpatient treatment for 18 months, he is still hospitalized or on outpatient treatment pursuant to this section, he shall be returned to the committing court where a hearing shall be held pursuant to the procedures set forth in Section 1369 The court shall transmit a copy of its order to the county mental health director or his designee.

(3) If it is determined by the court that no treatment for the defendant's mental impairment is being conducted, the defendant shall be returned to the committing court.

(4) The superintendent or person in charge of the facility shall deliver the reports made pursuant to paragraph (1) to the committing court and to the county mental health director or his designee, which shall provide a copy thereof to the defendant, his attorney of record, and any other interested person specified by the defendant.

(c) (1) If, at the end of three years from the date of commitment or a period of commitment equal to the maximum term of imprisonment provided by law for the most serious offense charged in the information, indictment, or misdemeanor complaint, whichever is shorter, the defendant has not recovered his mental competence, he shall be returned to the committing court. The court shall notify the county mental health director or his designee of such return and of any resulting court orders.

(2) Whenever any defendant is returned to the court pursuant to paragraph (2) of subdivision (b) or paragraph (1) of subdivision (c) and it appears to the court that the defendant is gravely disabled as defined in paragraph (2) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings for such defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Any hearings required in the conservatorship proceedings shall be held in the superior court in the county which ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the county mental health director or his designee.

(d) The criminal action remains subject to dismissal pursuant to Section 1385.

(e) If the criminal charge against the defendant is dismissed, the defendant shall be released from any commitment ordered under this section, but without prejudice to the initiation of any proceedings under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, which may be appropriate.

SEC. 5. Section 1370.3 is added to the Penal Code, to read:

1370.3. (a) If the county mental health director, or his designee, is of the opinion that the defendant is not a danger to the health and safety of others and will benefit from outpatient treatment, he may allow the defendant to be treated as an outpatient. An announcement of intent to place the defendant on an outpatient status shall be filed with the court of commitment and the prosecuting attorney and the defendant's attorney of record at least 15 days in advance of the change in status. The court may hold a hearing and (1) approve or disapprove of the plan or (2) take no

action, in which case the plan shall be deemed approved. The court shall transmit a copy of its order to the county mental health director or his designee. At the request of the prosecuting attorney a hearing shall be held. Prior to filing such announcement of intent the county mental health director, or his designee, shall obtain the agreement of the person in charge of a mental health facility, and of the defendant, that the defendant will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant. At 90-day intervals following the beginning of outpatient treatment, the outpatient supervisor shall make a report in writing to the court, the prosecuting attorney the attorney of record for the defendant, and the county mental health director or his designee setting forth the status and progress of the defendant. The maximum period of such treatment shall not exceed one year. The court may at the end of such maximum period renew its approval for additional outpatient treatment upon the request of the county mental health director or his designee.

(b) When the outpatient supervisor is of the opinion that the defendant has recovered competence the supervisor shall communicate such opinion to the person in charge of the facility. If the person in charge of the facility concurs, he shall certify the opinion to the county mental health director or his designee, committing court, prosecuting attorney, and attorney of record for the defendant. The court shall calendar the case for further proceedings pursuant to Section 1372.

(c) If at any time during an outpatient treatment period the outpatient supervisor is of the opinion that the defendant requires extended inpatient treatment or refuses to accept further outpatient treatment, he shall communicate such opinion or refusal to the person in charge of the facility. If the person in charge of the facility concurs, he shall notify the committing court, the prosecuting attorney, the attorney of record for the defendant, and the county mental health director or his designee of his intent to transfer the defendant to a state hospital or any other public or private mental health facility approved by the county mental health director. Within 15 judicial days, the court shall (1) approve or disapprove of the transfer or (2) take no action, in which case the transfer shall be deemed approved. Such transfer shall be reviewable by a writ of a habeas corpus only. If a verified petition for a writ alleges on its face facts sufficient to justify relief, an order to show cause shall issue.

(d) If at any time during an outpatient treatment period the prosecuting attorney is of the opinion that the defendant is a danger to the health and safety of others, while on outpatient treatment, he may petition the court for a hearing to determine whether the defendant shall be continued on outpatient treatment. The court shall calendar the case for further proceedings and the clerk shall notify the defendant, outpatient supervisor, the attorney of record for the defendant, and the county mental health director or his

designee of the calendared date. Upon failure of the defendant to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for the defendant. If, after a hearing in open court conducted with the same standards used in probation revocation hearings pursuant to Section 1203.2 of the Penal Code, the judge of the committing court determines that the defendant is a danger to the health and safety of others, he shall commit the defendant to a state hospital for the care and treatment of the mentally disordered or to any public or private mental health facility approved by the county mental health director. The court shall transmit a copy of its order to the county mental health director or his designee. Such order shall be reviewable by a writ of habeas corpus only.

(e) An outpatient who requires inpatient treatment pending judicial determination of his outpatient status pursuant to subdivisions (c) and (d) shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300 of the Welfare and Institutions Code.

The person in charge of the facility in which an outpatient receives inpatient treatment shall notify the county mental health director or his designee of inpatient treatment provided to an outpatient under this section.

SEC. 6. Section 1374 of the Penal Code is amended to read:

1374. (a) If the superintendent of a state hospital or other facility to which the defendant is committed or transferred is of the opinion that the defendant is not a danger to the health and safety of others, he may allow the defendant to be treated as an outpatient.

An announcement of of intent to place the defendant on outpatient status shall be provided to the committing court, prosecuting attorney, and attorney of record for the defendant at least 15 days in advance of the change in status. The court may hold a hearing and (1) approve or disapprove of the plan or (2) take no action, in which case the plan shall be deemed to have been approved.

(b) Prior to filing such announcement of intent the superintendent shall obtain the agreement of the county mental health director, the person in charge of a mental health facility and of the defendant, that the defendant will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the defendant. At 90-day intervals following the beginning of outpatient treatment, the outpatient supervisor shall make a report in writing to the court, the state hospital or other facility to which the defendant was committed or transferred, the county mental health director or his designee, and to the person in charge of the mental health facility setting forth the status and progress of the defendant. The maximum period of such treatment shall not exceed one year. The court may at the end of such maximum period renew its approval for additional outpatient treatment upon the request of the superintendent of the

state hospital or other facility.

(c) When the outpatient supervisor is of the opinion that the defendant has recovered competence the supervisor shall communicate such opinion to the person in charge of the facility. If the person in charge of the facility concurs, he shall certify the opinion to the committing court, prosecuting attorney, attorney of record for the defendant, and the county mental health director or his designee. The court shall calendar the case for further proceedings pursuant to Section 1372.

(d) If at any time during an outpatient treatment period the outpatient supervisor is of the opinion that the defendant requires extended inpatient treatment or refuses to accept further outpatient treatment, he shall communicate such opinion or refusal to the person in charge of the facility. If the person in charge of the facility concurs, the defendant shall be returned to the state hospital or other facility to which he was committed or transferred pursuant to Section 1370. The person in charge of the facility shall notify the county mental health director or his designee of the defendant's return. Such return shall be reviewable by a writ of a habeas corpus only. If a verified petition for a writ alleges on its face facts sufficient to justify relief, an order to show cause shall issue.

(e) If at any time during an outpatient treatment period the prosecuting attorney is of the opinion that the defendant is a danger to the health and safety of others while on outpatient treatment, he may petition the court for a hearing to determine whether the defendant shall be continued on outpatient treatment. The court shall calendar the case for further proceedings and the clerk shall notify the defendant, outpatient supervisor, the attorney of record for the defendant, and the county mental health director or his designee of the calendared date. Upon failure of the defendant to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for the defendant. If, after a hearing in open court conducted with the same standards used in probation revocation hearings pursuant to Section 1203.2 of the Penal Code, the judge of the committing court determines that the defendant is a danger to the health and safety of others, he shall order the defendant returned to the state hospital or other facility to which he was committed or transferred pursuant to Section 1370.

The court shall transmit a copy of its order to the county mental health director or his designee. Such order shall be reviewable by a writ of habeas corpus only.

(f) An outpatient who requires inpatient treatment pending determination of his outpatient status pursuant to subdivisions (b) and (c) shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300 of the Welfare and Institutions Code.

The person in charge of the facility in which an outpatient receives inpatient treatment shall notify the county mental health director or

his designee of inpatient treatment provided to an outpatient under this section.

SEC. 7. Section 5402.1 is added to the Welfare and Institutions Code, to read:

5402.1. The Director of Health shall conduct a study in order to compare the relative cost and duration of treatment between those patients committed to state hospitals and those patients committed to other facilities or placed on outpatient treatment pursuant to Sections 1026, 1026.1, 1370, 1370.3 of the Penal Code and Section 6316 of the Welfare and Institutions Code. The director shall report his findings to the Legislature by January 1, 1978.

SEC. 8. Section 5710.1 is added to the Welfare and Institutions Code, to read:

5710.1. If any person is committed to a local mental health facility or is ordered to undergo outpatient treatment pursuant to Section 1026, 1026.1, 1368, or 1370.3 of the Penal Code or as a mentally disordered sex offender, or if any person committed to a state hospital or local mental health facility pursuant to Section 1026 or 1370 of the Penal Code or as a mentally disordered sex offender receives outpatient treatment pursuant to court approval, the county mental health program providing such inpatient or outpatient treatment services shall be reimbursed for the expenditures made by it for such services pursuant to this chapter except that the state's share shall be 100 percent of such expenditures. Each county Short-Doyle plan shall include provision for such services in the plan.

SEC. 9. Section 6316 of the Welfare and Institutions Code is amended to read:

6316. If, after examination and hearing, the court finds that the person is a mentally disordered sex offender and that the person could benefit by treatment in a state hospital, or other mental health facility the court in its discretion has the alternative to return the person to the criminal court for further disposition, or may make an order committing the person to the department for placement in a state hospital for an indeterminate period, or may commit the person to the county mental health director for placement in an appropriate public or private mental health facility, approved by such director, for an indeterminate period, and a copy of such commitment shall be personally served upon said person within five days after the making of such order. The court shall transmit a copy of its order to the county mental health director or his designee. Prior to making such order, the court shall order the county mental health director or his designee to evaluate the defendant and to submit to the court within 15 judicial days of such order his written recommendation as to whether the defendant should be committed to a state hospital or to another mental health facility.

If after examination and hearing, the court finds that the person is a mentally disordered sex offender but will not benefit by care or treatment in a state hospital or other facility the court shall then cause the person to be returned to the court in which the criminal

charge was tried to await further action with reference to such criminal charge. Such court shall resume the proceedings and shall impose sentence or make such other suitable disposition of the case as the court deems necessary. If, however, such court is satisfied that the person is a mentally disordered sex offender but would not benefit by care or treatment in a state hospital or other facility it may recertify the person to the superior court of the county. The superior court may make an order committing the person for an indefinite period to the State Department of Health for placement in a state institution or institutional unit for the care and treatment of mentally disordered sex offenders designated by the court and provided pursuant to Section 6326. The court shall transmit a copy of its order to the county mental health director or his designee.

SEC. 10. Section 6317 of the Welfare and Institutions Code is amended to read:

6317. If the court orders the commitment of the person to the department for placement in a state hospital for an indeterminate period or to the county mental health director for placement in an appropriate facility for an indefinite period, the court may, in the order of commitment, require the superintendent of the state hospital or other facility to make periodic reports to the court concerning the person's progress towards recovery.

SEC. 11. Section 6318 of the Welfare and Institutions Code is amended to read:

6318. If a person ordered under Section 6316 to be committed as a mentally disordered sex offender to the department for placement in a state hospital for care and treatment or to the county mental health director for placement in an appropriate facility, or any friend in his behalf, is dissatisfied with the order of the judge so committing him, he may, within 15 days after the making of such order, demand that the question of his being a mentally disordered sex offender be tried by a judge or by a jury in the superior court of the county in which he was committed. Thereupon the court shall set the case for hearing at a date, or shall cause a jury to be summoned and to be in attendance at a date stated, not less than five nor more than 10 days from the date of the demand for a court or jury trial. The court shall adjudge whether the person is a mentally disordered sex offender, or if it is a trial by jury the judge shall submit to the jury the question: Is the person a mentally disordered sex offender?

SEC. 12. Section 6319 of the Welfare and Institutions Code is amended to read:

6319. Proceedings under this article under the order for commitment to the department for placement in a state hospital or to a county mental health director for placement in an appropriate facility shall not be stayed, pending the proceedings for determining the question of whether the person is a mentally disordered sex offender by a judge or jury, except upon the order of a superior court judge, with provision made therein for such temporary care and custody of the person as the judge deems necessary. If the superior

court judge, by the order granting the stay, commits the person to the custody of any person other than a peace officer, he may, by such order, require a bond for his appearance at the trial.

SEC. 13. Section 6321 of the Welfare and Institutions Code is amended to read:

6321. The trial shall be had as provided by law for the trial of civil causes, and if tried before a jury the person shall be discharged unless a verdict that he is a mentally disordered sex offender is found by at least three-fourths of the jury. If the judge adjudges or the verdict of the jury is that he is a mentally disordered sex offender the judge shall adjudge that fact and make an order similar to the original order for commitment to the department for placement in a state hospital or to a county mental health director for placement in an appropriate facility. The order committing the person to the department for placement in a state hospital or other facility shall be presented to the superintendent of the state hospital or other facility or other representative of the department to whom the person is committed.

SEC. 14. Section 6322 of the Welfare and Institutions Code is amended to read:

6322. The sheriff of any county wherein an order is made by the court committing a person for an indeterminate period to a state hospital or other facility or returning such person to the court, or any other peace officer designated by the court, shall execute the writ of commitment or order of return, and receive as compensation therefor such fees as are now or may hereafter be provided by law for the transportation of prisoners to the state prison, which shall be payable in the same manner.

The expense of transporting a person to a county facility or state hospital temporarily for an observation placement under this article and returning such person to the court is a charge upon the county in which the court is situated.

SEC. 15. Section 6323 of the Welfare and Institutions Code is amended to read:

6323. Certified copies of the affidavit, certification from the trial court, order for examination or detention, order for hearing and examination, report of the probation officer and of the court-appointed psychiatrists, and the order of commitment for an indeterminate period shall be delivered to the person transporting the mentally disordered sex offender to the state hospital or other facility, and shall be delivered by that person to the officer in charge of the hospital or other facility.

SEC. 16. Section 6324 of the Welfare and Institutions Code is amended to read:

6324. The provisions of Section 4025 and of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7 relative to the property and care and support of persons in state hospitals, the liability for such care and support, and the powers and duties of the State Department of Health and all officers and employees thereof in connection therewith shall apply to persons committed to state

hospitals or to other facilities pursuant to this article the same as if such persons were expressly referred to in said Section 4025 and said Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

SEC. 17. Section 6325 of the Welfare and Institutions Code is amended to read:

6325. Whenever a person who is committed for an indeterminate period to the department for placement in a state hospital or to a county mental health director for placement in an appropriate facility (a) has been treated to such an extent that in the opinion of the superintendent or county mental health director the person will not benefit by further care and treatment in the hospital or facility and is not a danger to the health and safety of others, or (b) has not recovered, and in the opinion of the superintendent or county mental health director the person is still a danger to the health and safety of others, the superintendent of the hospital or county mental health director shall file with the committing court a certification of his opinion under (a) or (b), as the case may be, including therein a report, diagnosis and recommendation concerning the person's future care, supervision or treatment. If the opinion so certified is under (a) the committing court shall forthwith order the return of the person to said committing court and shall thereafter cause the person to be returned to the court in which the criminal charge was tried to await further action with reference to such criminal charge.

Such court shall resume the proceedings, upon the return of the person to the court, and after considering all the evidence before it may place the person on probation for a period of not less than five years if the criminal charge permits such probation and the person is otherwise eligible for probation. As a condition of such probation the person shall totally abstain from the use of alcoholic liquor or beverages. In any case, where the person is sentenced on a criminal charge, the time the person spent under indeterminate commitment as a mentally disordered sex offender shall be credited in fixing his term of sentence.

SEC. 18. Section 6325.1 is added to the Welfare and Institutions Code, to read:

6325.1. If a mentally disordered sex offender is committed or transferred to a state hospital pursuant to this section, the committing court may, upon receiving the written recommendation of the superintendent of the state hospital and the county mental health director that the person be transferred to a public or private mental health facility approved by the county mental health director, order the person transferred to such facility. If the person is committed or transferred to a public or private mental health facility approved by the county mental health director, the committing court may, upon receiving the written recommendation of the county mental health director, transfer the person to a state hospital.

The defendant or prosecuting attorney, if he chooses to contest

either kind of order of transfer, may petition the court for a hearing, which shall be held if the court determines that sufficient grounds exist. At such hearing, the prosecuting attorney or the defendant may present evidence bearing on the order of transfer. The court shall use the same standards used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code.

Prior to making an order for transfer under this section, the court shall notify the person, the prosecuting attorney attorney of record for the person, and the county mental health director or his designee.

(a) If the superintendent of the state hospital or other facility to which the person is committed or transferred as a mentally disordered sex offender is of the opinion that a person has improved to such an extent that he is no longer a danger to the health and safety of others and will benefit from outpatient treatment, the superintendent may file with the committing court an announcement of intent to place the person on outpatient treatment. In those cases where the person has been found guilty of murder, assault with intent to commit murder, a violation of Section 207 or 209 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, a violation of subdivision 2 or 3 of Section 261 of the Penal Code, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, or if the person has been found guilty of a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person, the superintendent of the state hospital or other facility to which the person is committed shall not file a petition for outpatient treatment until the person has been confined in the facility for a minimum of 90 days. Within 15 days after receipt of the announcement of intent, after notice to the prosecuting attorney and to the attorney of record for the person, the court shall, after a hearing in open court, approve or disapprove the announcement of intent If the approval of the court is given, the person shall be treated as an outpatient. Prior to filing such an announcement of intent the superintendent shall obtain the agreement of the county mental health director, the person in charge of a mental health facility and the person who has been recommended for outpatient treatment that the person will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the person. At 90-day intervals following the beginning of outpatient treatment, the outpatient supervisor shall make a report in writing to the court, the state hospital or other facility to which the person was committed, the county mental health director or his designee, and to the person in charge of the mental health facility setting forth the status and progress of the person. The maximum period of such treatment, shall not exceed one year. The court may at the end of such maximum period renew its approval for additional outpatient treatment.

(b) When the outpatient supervisor is of the opinion that the person is no longer a mentally disordered sex offender, the

supervisor shall communicate such opinion to the person in charge of the facility, and if the person in charge of the facility concurs, he shall certify the opinion to the committing court, prosecuting attorney, attorney of record for the person, and the county mental health director or his designee. The court shall calendar the case for further proceedings pursuant to Section 6325.

(c) If at any time during an outpatient treatment period the outpatient supervisor is of the opinion that the person requires extended inpatient treatment or refuses to accept further outpatient treatment, he shall communicate such opinion or refusal to the person in charge of the facility. If the person in charge of the facility concurs, the person shall be returned to the state hospital or other facility to which he was committed or transferred pursuant to Section 6316. The person in charge of the facility shall notify the county mental health director or his designee of the person's return. Such return shall be reviewable by a writ of habeas corpus only. If a verified petition for a writ alleges on its face facts sufficient to justify relief, an order to show cause shall issue.

(d) If at any time during an outpatient treatment period the prosecuting attorney is of the opinion that the person is a danger to the health and safety of others while on outpatient treatment, he may petition the court for a hearing to determine whether the person shall be continued on outpatient treatment. Upon receipt of the petition, the court shall calendar the case for further proceedings and the clerk shall notify the person, outpatient supervisor, attorney of record for the person, and the county mental health director or his designee of the calendared date. Upon failure of the person to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for such person. If, after a hearing in open court conducted with the same standards used in probation revocation hearings pursuant to Section 1203.2 of the Penal Code, the judge of the committing court determines that the person is a danger to the health and safety of others, he shall order the person returned to the state hospital or other facility to which he was committed or transferred pursuant to Section 6316.

The court shall transmit a copy of its order to the county mental health director or his designee. Such order shall be reviewable by a writ of habeas corpus only.

(e) An outpatient who requires inpatient treatment pending determination of his outpatient status pursuant to subdivisions (c) and (d) shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300 of the Welfare and Institutions Code.

The person in charge of the facility in which an outpatient receives inpatient treatment shall notify the county mental health director or his designee of inpatient treatment provided to an outpatient under this section.

SEC. 19. Section 6327 of the Welfare and Institutions Code is

amended to read:

6327. After a person has been committed for an indeterminate period to the department for placement in a state hospital or to a county mental health director for placement in an appropriate facility as a mentally disordered sex offender and has been confined for a period of not less than six months from the date of the order of commitment, the committing court may upon its own motion or on motion by or on behalf of the person committed, require the superintendent of the state hospital or other facility to which the person was committed to forward to the committing court and to the county mental health director or his designee, within 30 days, his opinion under (a) or (b) of Section 6325, including therein a report, diagnosis and recommendation concerning the person's future care, supervision, or treatment. After receipt of the report, the committing court may order the return of the person to the court for a hearing as to whether the person is still a mentally disordered sex offender within the meaning of this article.

The hearing shall be conducted substantially in accordance with Sections 6306 to 6314, inclusive. If, after the hearing, the judge finds that the person has not recovered from his mental disorder and is still a danger to the health and safety of others, he shall order the person returned to the State Department of Health or county mental health director under the prior order of commitment for an indeterminate period, or, if the opinion of the superintendent of the state hospital or other facility was under (b) of Section 6325, he may make and sign an order recommitting the person for an indeterminate period to the State Department of Health for placement in a state institution or institutional unit for the care and treatment of such mentally disordered sex offenders designated by the court and provided pursuant to Section 6326. The court shall transmit a copy of its order to the county mental health director or his designee. A subsequent hearing may not be held under this section until the person has been confined for an additional period of six months from the date of his return to the department or county mental health director. If the court finds that the person has recovered from his mental disorder to such an extent that he is no longer a danger to the health and safety of others, or that he will not benefit by further care and treatment in the hospital or other facility and is not a danger to the health and safety of others, the committing court shall thereafter cause the person to be returned to the court in which the criminal charge was tried to await further action with reference to such criminal charge. The court shall transmit a copy of its order to the county mental health director or his designee.

SEC. 20. Section 6328 of the Welfare and Institutions Code is amended to read:

6328. The superintendent of a state hospital or other facility may extend to any person confined therein pursuant to this article such of the privileges granted to other patients of the hospital or facility as are not incompatible with his detention or unreasonably

conducive to his escape from custody.

SEC. 21. Section 6330 of the Welfare and Institutions Code is amended to read:

6330. Every person committed for an indeterminate period to a state hospital or state institution or other public or private mental health facility as a mentally disordered sex offender, who escapes or attempts to escape therefrom, or who escapes or attempts to escape while being conveyed to or from such county facility, state hospital or state institution, is punishable by imprisonment in the state prison not to exceed five years or in the county jail not to exceed one year.

SEC. 22. Section 7375 of the Welfare and Institutions Code is amended to read:

7375. (a) A patient committed to a state hospital or other facility under the provisions of Chapter 6 (commencing with Section 1367), Title 10, Part 2, of the Penal Code, shall, upon the certificate of the medical director of the hospital or facility that the person has recovered, approved by the superior judge of the county from which the patient was committed, be redelivered to the sheriff of such county, and dealt with in accordance with the provisions of Chapter 6 of the Penal Code. The sheriff shall immediately return the person to the court for further proceedings. Within two judicial days of the person's return, the court shall hold a hearing to determine whether the person is entitled to be admitted to bail or released on his own recognizance pending conclusion of the proceedings.

(b) A person committed to a state hospital or other facility under the provisions of Section 1026 of the Penal Code shall be released therefrom only upon determination that his sanity has been restored, as provided in Sections 1026 and 1026a of the Penal Code, except as otherwise expressly provided in subdivision (c) or (d) of this section.

(c) Whenever any such person has been confined in a state hospital or other facility for 90 days or more, after having been committed to a state hospital or other facility under the provisions of Section 1026 of the Penal Code in a criminal proceeding in which the offense alleged to have been committed by such person was punishable by a penalty other than death, and the medical director of the hospital or facility is of the opinion that the person has improved to such an extent that he is no longer a danger to the health and safety of others and that the person will receive benefit from parole, the medical director may certify said opinion to the committing court and to the county mental health director or his designee. Within 30 days after the receipt of the certification, after notice to the person, the prosecuting attorney, the attorney of record for the person, and the county mental health director or his designee, the court shall, after a hearing in open court, approve or disapprove such recommendation. The court shall transmit a copy of its order to the county mental health director or his designee. If the approval of the court is given, the medical director of the hospital or other facility may parole the person under such terms and conditions as the medical director specifies. The parole may include releasing the

person to the custody of the local mental health director in the county from which the person was committed, for one or more periods not to exceed 30 days in each case, to facilitate the adjustment of the person to the community pending a determination with regard to his restoration of sanity. The parole shall be on the same general terms and conditions as parole of the mentally disordered committed under the provisions of this code. If the court disapproves of such recommendation, no further recommendation for parole shall be made by the medical director until six months have elapsed from the date of the last preceding recommendation.

(d) Whenever any such person has been confined in a state hospital or other facility for three years or more, after having been committed to a state hospital or other facility under the provisions of Section 1026 of the Penal Code in a criminal proceeding in which the offense alleged to have been committed by such person was punishable by death, and the medical director of the hospital or facility is of the opinion that the person has improved to such an extent that he is no longer a danger to the health and safety of others and that the person will receive benefit from parole, the medical director may certify said opinion to the committing court and to the county mental health director or his designee. Within 30 days after the receipt of the certification, after notice to the prosecuting attorney and the county mental health director or his designee,, the court shall, after a hearing in open court, approve or disapprove such recommendation. The court shall transmit a copy of its order to the county mental health director or his designee. If the approval of the court is given, the medical director of the hospital or other facility may parole the person under such terms and conditions as the medical director specifies. The parole may include releasing the person to the custody of the local mental health director in the county from which the person was committed, for one or more periods not to exceed 30 days in each case, to facilitate the adjustment of the person to the community pending a determination with regard to his restoration of sanity. The parole shall be on the same general terms and conditions as parole of the mentally disordered committed under the provisions of this code. If the court disapproves of such recommendation, no further recommendation for parole shall be made by the medical director until six months have elapsed from the date of the last preceding recommendation.

(1) If the medical director of the state hospital or other facility is of the opinion that a person who has been committed to the state hospital or other facility pursuant to Section 1026 of the Penal Code has improved to such an extent that he is no longer a danger to the health and safety of others while on outpatient treatment and will benefit from outpatient treatment, the medical director may allow the person to be treated as an outpatient.

An announcement of intent to place the person on outpatient status shall be filed with the court of commitment, the prosecuting attorney, and attorney of record for the person at least 15 days in

advance of the change in status. The court may hold a hearing and (1) approve or disapprove of the plan or (2) take no action, in which case the plan shall be deemed approved. The court shall transmit a copy of its order to the county mental health director or his designee. At the request of the prosecuting attorney, a hearing shall be held. Prior to filing such announcement of intent the medical director shall obtain the agreement of the county mental health director, the person in charge of a mental health facility and the person who has been recommended for outpatient treatment, that the person will receive and submit to outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the person. At 90-day intervals following the beginning of outpatient treatment, the outpatient supervisor shall make a report in writing to the court, the state hospital or other facility to which the person was committed and to the person in charge of the mental health facility setting forth the status and progress of the person. The maximum period of such treatment shall not exceed one year. The court may at the end of such maximum period renew its approval for additional outpatient treatment upon the recommendation of the medical director of the state hospital or facility. The court shall communicate such renewal to the county mental health director or his designee.

(2) When the outpatient supervisor is of the opinion that the person has regained his sanity, the supervisor shall communicate such opinion to the person in charge of the facility, and if the person in charge of the facility concurs, he shall certify the opinion to the person, the committing court, the prosecuting attorney, the attorney of record for the person, and the county mental health director or his designee. The court shall calendar the case for further proceedings for release pursuant to Penal Code Section 1026a.

(3) If at any time during an outpatient treatment period the outpatient supervisor is of the opinion that the person refuses to accept outpatient treatment, or requires inpatient treatment, he shall communicate such opinion or refusal to the person in charge of the facility. If the person in charge of the facility concurs, the person shall be returned to the state hospital or other facility to which he was committed or transferred pursuant to Section 1026. The person in charge of the facility shall notify the county mental health director or his designee of the person's return. Such return shall be reviewable by a writ of habeas corpus only. If a verified petition for a writ alleges on its face facts sufficient to justify relief, an order to show cause shall issue.

(4) If at any time during an outpatient treatment period the prosecuting attorney is of the opinion that the person is a danger to the health and safety of others while on outpatient treatment, he may petition the court for a hearing to determine whether the person shall be continued on outpatient treatment. The court shall use the same standards as used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code. Upon receipt of the

petition, the court shall calendar the case for further proceedings and the clerk shall notify the person, outpatient supervisor, the county mental health director or his designee, and attorney of record for the person of the calendared date. Upon failure of the person to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the count may issue a body attachment for the person. If, after a hearing in open court, the judge of the committing court determines that the person is a danger to the health and safety of others, he shall order the person returned to the state hospital or other facility to which he was committed pursuant to Section 1026. The court shall transmit a copy of its order to the county mental director or his designee. Such order shall be reviewable by a writ of habeas corpus only.

(5) An outpatient who requires inpatient treatment pending determination of his outpatient status pursuant to subdivisions (3) and (4) shall receive such treatment subject to the provisions of Sections 5150, 5200, 5250, and 5300 of the Welfare and Institutions Code. The person in charge of the facility in which an outpatient receives inpatient treatment shall notify the county mental health director or his designee of inpatient treatment provided to an outpatient under this section.

(e) A convict received into a state hospital under the provisions of Section 2684 of the Penal Code, shall, on recovery, be returned to prison in accordance with the provisions of Section 2685 of the Penal Code.

SEC. 23. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by this act.

CHAPTER 1275

An act to add Sections 1240.680 and 1240.700 to, to add Title 7 (commencing with Section 1230.010) to, and to repeal Title 7 (commencing with Section 1237) of, Part 3 of the Code of Civil Procedure, relating to acquisition of property for public use.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Title 7 (commencing with Section 1237) of Part 3 of the Code of Civil Procedure is repealed.

SEC. 2. Title 7 (commencing with Section 1230.010) is added to Part 3 of the Code of Civil Procedure, to read:

TITLE 7. EMINENT DOMAIN LAW

CHAPTER 1. GENERAL PROVISIONS

1230.010. This title shall be known and may be cited as the Eminent Domain Law.

1230.020. Except as otherwise specifically provided by statute, the power of eminent domain may be exercised only as provided in this title.

1230.030. Nothing in this title requires that the power of eminent domain be exercised to acquire property necessary for public use. Whether property necessary for public use is to be acquired by purchase or other means or by eminent domain is a decision left to the discretion of the person authorized to acquire the property.

1230.040. Except as otherwise provided in this title, the rules of practice that govern civil actions generally are the rules of practice for eminent domain proceedings.

1230.050. The court in which a proceeding in eminent domain is brought has the power to:

(a) Determine the right to possession of the property, as between the plaintiff and the defendant, in accordance with this title.

(b) Enforce any of its orders for possession by appropriate process. The plaintiff is entitled to enforcement of an order for possession as a matter of right.

1230.060. Nothing in this title affects any other statute granting jurisdiction over any issue in eminent domain proceedings to the Public Utilities Commission.

1230.065. (a) This title becomes operative July 1, 1976.

(b) This title does not apply to an eminent domain proceeding commenced prior to January 1, 1976. Subject to subdivisions (c) and (d), in the case of an eminent domain proceeding which is commenced on or after January 1, 1976, but prior to the operative date, this title upon the operative date applies to the proceeding to the fullest extent practicable with respect to issues to be tried or retried.

(c) Chapter 3 (commencing with Section 1240.010), Chapter 4 (commencing with Section 1245.010), and Chapter 5 (commencing with Section 1250.010) do not apply to a proceeding commenced prior to the operative date.

(d) If, on the operative date, an appeal, motion to modify or vacate the verdict or judgment, or motion for new trial is pending, the law applicable thereto prior to the operative date governs the determination of the appeal or motion.

1230.070. No judgment rendered prior to the operative date of this title in a proceeding to enforce the right of eminent domain is affected by the enactment of this title and the repeal of former Title 7 of this part.

CHAPTER 2. PRINCIPLES OF CONSTRUCTION; DEFINITIONS

Article 1. Construction

1235.010. Unless the provision or context otherwise requires, these preliminary provisions and rules of construction shall govern the construction of this title.

1235.020. Chapter, article, and section headings do not in any manner affect the scope, meaning, or intent of the provisions of this title.

1235.030. Whenever any reference is made to any portion of this title or to any other statute, such reference shall apply to all amendments and additions heretofore or hereafter made.

1235.040. Unless otherwise expressly stated:

(a) "Chapter" means a chapter of this title.

(b) "Article" means an article of the chapter in which that term occurs.

(c) "Section" means a section of this code.

(d) "Subdivision" means a subdivision of the section in which that term occurs.

(e) "Paragraph" means a paragraph of the subdivision in which that term occurs.

1235.050. The present tense includes the past and future tenses; and the future, the present.

1235.060. "Shall" is mandatory and "may" is permissive.

1235.070. If any provision or clause of this title or application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the title that can be given effect without the invalid provision or application, and to this end the provisions of this title are severable.

Article 2. Words and Phrases Defined

1235.110. Unless the provision or context otherwise requires, these definitions govern the construction of this title.

1235.120. "Final judgment" means a judgment with respect to which all possibility of direct attack by way of appeal, motion for a new trial, or motion under Section 663 to vacate the judgment has been exhausted.

1235.125. When used with reference to property, "interest" includes any right, title, or estate in property.

1235.130. "Judgment" means the judgment determining the right to take the property by eminent domain and fixing the amount of compensation to be paid by the plaintiff.

1235.140. "Litigation expenses" includes both of the following:

(a) All expenses reasonably and necessarily incurred in the proceeding in preparing for trial, during trial, and in any subsequent judicial proceedings.

(b) Reasonable attorney's fees, appraisal fees, and fees for the

services of other experts where such fees were reasonably and necessarily incurred to protect the defendant's interests in the proceeding in preparing for trial, during trial, and in any subsequent judicial proceedings whether such fees were incurred for services rendered before or after the filing of the complaint.

1235.150. "Local public entity" means any public entity other than the state.

1235.160. "Person" includes any public entity, individual, association, organization, partnership, trust, or corporation.

1235.165. "Proceeding" means an eminent domain proceeding under this title.

1235.170. "Property" includes real and personal property and any interest therein.

1235.180. "Property appropriated to public use" means property either already in use for a public purpose or set aside for a specific public purpose with the intention of using it for such purpose within a reasonable time.

1235.190. "Public entity" includes the state, a county, city, district, public authority, public agency, and any other political subdivision in the state.

1235.195. "Resolution" includes ordinance.

1235.200. "State" means the State of California and includes the Regents of the University of California.

1235.210. "Statute" means a constitutional provision or statute, but does not include a charter provision or ordinance.

CHAPTER 3. THE RIGHT TO TAKE

Article 1. General Limitations on Exercise of Power of Eminent Domain

1240.010. The power of eminent domain may be exercised to acquire property only for a public use. Where the Legislature provides by statute that a use, purpose, object, or function is one for which the power of eminent domain may be exercised, such action is deemed to be a declaration by the Legislature that such use, purpose, object, or function is a public use.

1240.020. The power of eminent domain may be exercised to acquire property for a particular use only by a person authorized by statute to exercise the power of eminent domain to acquire such property for that use.

1240.030. The power of eminent domain may be exercised to acquire property for a proposed project only if all of the following are established:

(a) The public interest and necessity require the project.

(b) The project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(c) The property sought to be acquired is necessary for the project.

1240.040. A public entity may exercise the power of eminent domain only if it has adopted a resolution of necessity that meets the requirements of Article 2 (commencing with Section 1245.210) of Chapter 4.

1240.050. A local public entity may acquire by eminent domain only property within its territorial limits except where the power to acquire by eminent domain property outside its limits is expressly granted by statute or necessarily implied as an incident of one of its other statutory powers.

Article 2. Rights Included in Grant of Eminent Domain Authority

1240.110. (a) Except to the extent limited by statute, any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire any interest in property necessary for that use including, but not limited to, submerged lands, rights of any nature in water, subsurface rights, airspace rights, flowage or flooding easements, aircraft noise or operation easements, right of temporary occupancy, public utility facilities and franchises, and franchises to collect tolls on a bridge or highway.

(b) Where a statute authorizes the acquisition by eminent domain only of specified interests in or types of property, this section does not expand the scope of the authority so granted.

1240.120. (a) Subject to any other statute relating to the acquisition of property, any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire property necessary to carry out and make effective the principal purpose involved including but not limited to property to be used for the protection or preservation of the attractiveness, safety, and usefulness of the project.

(b) Subject to any applicable procedures governing the disposition of property, a person may acquire property under subdivision (a) with the intent to sell, lease, exchange, or otherwise dispose of the property, or an interest therein, subject to such reservations or restrictions as are necessary to protect or preserve the attractiveness, safety, and usefulness of the project.

1240.125. Except as otherwise expressly provided by statute and subject to any limitations imposed by statute, a local public entity may acquire property by eminent domain outside its territorial limits for water, gas, or electric supply purposes or for airports, drainage or sewer purposes if it is authorized to acquire property by eminent domain for the purposes for which the property is to be acquired.

1240.130. Subject to any other statute relating to the acquisition of property, any public entity authorized to acquire property for a particular use by eminent domain may also acquire such property for such use by grant, purchase, lease, gift, devise, contract, or other means.

1240.140. (a) As used in this section, "public agencies" includes all those agencies included within the definition of "public agency" in Section 6500 of the Government Code.

(b) Two or more public agencies may enter into an agreement for the joint exercise of their respective powers of eminent domain, whether or not possessed in common, for the acquisition of property as a single parcel Such agreement shall be entered into and performed pursuant to the provisions of Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

1240.150. Whenever a part of a larger parcel of property is to be acquired by a public entity for public use and the remainder, or a portion of the remainder, will be left in such size, shape, or condition as to be of little value to its owner or to give rise to a claim for severance or other damages, the public entity may acquire the remainder, or portion of the remainder, by any means (including eminent domain) expressly consented to by the owner.

1240.160. (a) None of the provisions of this article is intended to limit, or shall limit, any other provision of this article, each of which is a distinct and separate authorization.

(b) None of the provisions of Article 2 (commencing with Section 1240.110), Article 3 (commencing with Section 1240.210), Article 4 (commencing with Section 1240.310), Article 5 (commencing with Section 1240.410), Article 6 (commencing with Section 1240.510), or Article 7 (commencing with Section 1240.610) is intended to limit, or shall limit, the provisions of any other of the articles, each of which articles is a distinct and separate authorization.

Article 3. Future Use

1240.210. For the purposes of this article, the "date of use" of property taken for public use is the date when the property is devoted to that use or when construction is started on the project for which the property is taken with the intent to complete the project within a reasonable time. In determining the "date of use," periods of delay caused by extraordinary litigation or by failure to obtain from any public entity any agreement or permit necessary for construction shall not be included.

1240.220. (a) Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire property to be used in the future for that use, but property may be taken for future use only if there is a reasonable probability that its date of use will be within seven years from the date the complaint is filed or within such longer period as is reasonable.

(b) Unless the plaintiff plans that the date of use of property taken will be within seven years from the date the complaint is filed, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section and shall state the estimated date of use.

1240.230. (a) If the defendant objects to a taking for future use, the burden of proof is as prescribed in this section.

(b) Unless the complaint states an estimated date of use that is not within seven years from the date the complaint is filed, the defendant has the burden of proof that there is no reasonable probability that the date of use will be within seven years from the date the complaint is filed.

(c) If the defendant proves that there is no reasonable probability that the date of use will be within seven years from the date the complaint is filed, or if the complaint states an estimated date of use that is not within seven years from the date the complaint is filed, the plaintiff has the burden of proof that a taking for future use satisfies the requirements of this article.

1240.240. Notwithstanding any other provision of this article, any public entity authorized to acquire property for a particular use by eminent domain may acquire property to be used in the future for that use by any means (including eminent domain) expressly consented to by its owner.

1240.250. Notwithstanding any other provision of this article, where property is taken pursuant to the Federal Aid Highway Act of 1973:

(a) A date of use within 10 years from the date the complaint is filed shall be deemed reasonable.

(b) The resolution of necessity and the complaint shall indicate that the taking is pursuant to the Federal Aid Highway Act of 1973 and shall state the estimated date of use.

(c) If the defendant objects to the taking, the defendant has the burden of proof that there is no reasonable probability that the date of use will be within 10 years from the date the complaint is filed. If the defendant proves that there is no reasonable probability that the date of use will be within 10 years from the date the complaint is filed, the plaintiff has the burden of proof that the taking satisfies the requirements of this article.

Article 4. Substitute Condemnation

1240.310. As used in this article:

(a) "Necessary property" means property to be used for a public use for which the public entity is authorized to acquire property by eminent domain.

(b) "Substitute property" means property to be exchanged for necessary property.

1240.320. (a) Any public entity authorized to exercise the power of eminent domain to acquire property for a particular use may exercise the power of eminent domain to acquire for that use substitute property if all of the following are established:

(1) The owner of the necessary property has agreed in writing to the exchange.

(2) The necessary property is devoted to or held for some public use and the substitute property will be devoted to or held for the same public use by the owner of the necessary property.

(3) The owner of the necessary property is authorized to exercise the power of eminent domain to acquire the substitute property for such use.

(b) Where property is sought to be acquired pursuant to this section, the resolution of necessity and the complaint filed pursuant to such resolution shall specifically refer to this section and shall include a statement that the property is necessary for the purpose specified in this section. The determination in the resolution that the taking of the substitute property is necessary has the effect prescribed in Section 1245.250.

1240.330. (a) Where necessary property is devoted to public use, any public entity authorized to exercise the power of eminent domain to acquire such property for a particular use may exercise the power of eminent domain to acquire substitute property in its own name, relocate on such substitute property the public use to which necessary property is devoted, and thereafter convey the substitute property to the owner of the necessary property if all of the following are established:

(1) The public entity is required by court order or judgment in an eminent domain proceeding, or by agreement with the owner of the necessary property, to relocate the public use to which the necessary property is devoted and thereafter to convey the property upon which the public use has been relocated to the owner of the necessary property.

(2) The substitute property is necessary for compliance with the court order or judgment or agreement.

(3) The owner of the necessary property will devote the substitute property to the public use being displaced from the necessary property.

(b) Where property is sought to be acquired pursuant to this section, the resolution of necessity and the complaint filed pursuant to such resolution shall specifically refer to this section and shall include a statement that the property is necessary for the purpose specified in this section. The determination in the resolution that the taking of the substitute property is necessary has the effect prescribed in Section 1245.250.

1240.350. (a) Whenever a public entity acquires property for a public use and exercises or could have exercised the power of eminent domain to acquire such property for such use, the public entity may exercise the power of eminent domain to acquire such additional property as appears reasonably necessary and appropriate (after taking into account any hardship to the owner of the additional property) to provide utility service to, or access to a public road from, any property that is not acquired for such public use but which is cut off from utility service or access to a public road as a result of the acquisition by the public entity.

(b) Where property is sought to be acquired pursuant to this section, the resolution of necessity and the complaint filed pursuant to such resolution shall specifically refer to this section and shall include a statement that the property is necessary for the purpose specified in this section. The determination in the resolution that the taking of the substitute property is necessary has the effect prescribed in Section 1245.250.

Article 5. Excess Condemnation

1240.410. (a) As used in this section, "remnant" means a remainder or portion thereof that will be left in such size, shape, or condition as to be of little market value.

(b) Whenever the acquisition by a public entity by eminent domain of part of a larger parcel of property will leave a remnant, the public entity may exercise the power of eminent domain to acquire the remnant in accordance with this article.

(c) Property may not be acquired under this section if the defendant proves that the public entity has a reasonable, practicable, and economically sound means to prevent the property from becoming a remnant.

1240.420. When property is sought to be acquired pursuant to Section 1240.410, the resolution of necessity and the complaint filed pursuant to such resolution shall specifically refer to that section. It shall be presumed from the adoption of the resolution that the taking of the property is authorized under Section 1240.410. This presumption is a presumption affecting the burden of producing evidence.

1240.430. A public entity may sell, lease, exchange, or otherwise dispose of property taken under this article and may credit the proceeds to the fund or funds available for acquisition of the property being acquired for the public work or improvement. Nothing in this section relieves a public entity from complying with any applicable statutory procedures governing the disposition of property.

Article 6. Condemnation for Compatible Use

1240.510. Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire for that use property appropriated to public use if the proposed use will not unreasonably interfere with or impair the continuance of the public use as it then exists or may reasonably be expected to exist in the future. Where property is sought to be acquired pursuant to this section, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section.

1240.520. If the defendant objects to a taking under Section 1240.510, the defendant has the burden of proof that his property is appropriated to public use. If it is established that the property is

appropriated to public use, the plaintiff has the burden of proof that its proposed use satisfies the requirements of Section 1240.510.

1240.530. (a) Where property is taken under Section 1240.510, the parties shall make an agreement determining the terms and conditions upon which the property is taken and the manner and extent of its use by each of the parties. Except as otherwise provided by statute, if the parties are unable to agree, the court shall fix the terms and conditions upon which the property is taken and the manner and extent of its use by each of the parties.

(b) If the court determines that the use in the manner proposed by the plaintiff would not satisfy the requirements of Section 1240.510, the court shall further determine whether the requirements of Section 1240.510 could be satisfied by fixing terms and conditions upon which the property may be taken. If the court determines that the requirements of Section 1240.510 could be so satisfied, the court shall permit the plaintiff to take the property upon such terms and conditions and shall prescribe the manner and extent of its use by each of the parties.

(c) Where property is taken under this article, the court may order any necessary removal or relocation of structures or improvements if such removal or relocation would not require any significant alteration of the use to which the property is appropriated. Unless otherwise provided by statute, all costs and damages that result from the relocation or removal shall be paid by the plaintiff.

Article 7. Condemnation for More Necessary Public Use

1240.610. Any person authorized to acquire property for a particular use by eminent domain may exercise the power of eminent domain to acquire for that use property appropriated to public use if the use for which the property is sought to be taken is a more necessary public use than the use to which the property is appropriated. Where property is sought to be acquired pursuant to this section, the complaint, and the resolution of necessity if one is required, shall refer specifically to this section.

1240.620. If the defendant objects to a taking under Section 1240.610, the defendant has the burden of proof that his property is appropriated to public use. If it is established that the property is appropriated to public use, the plaintiff has the burden of proof that its use satisfies the requirements of Section 1240.610.

1240.630. (a) Where property is sought to be taken under Section 1240.610, the defendant is entitled to continue the public use to which the property is appropriated if the continuance of such use will not unreasonably interfere with or impair, or require a significant alteration of, the more necessary public use as it is then planned or exists or may reasonably be expected to exist in the future.

(b) If the defendant objects to a taking under this article on the

ground that he is entitled under subdivision (a) to continue the public use to which the property is appropriated, upon motion of either party, the court shall determine whether the defendant is entitled under subdivision (a) to continue the use to which the property is appropriated; and, if the court determines that the defendant is so entitled, the parties shall make an agreement determining the terms and conditions upon which the defendant may continue the public use to which the property is appropriated, the terms and conditions upon which the property taken by the plaintiff is acquired, and the manner and extent of the use of the property by each of the parties. Except as otherwise provided by statute, if the parties are unable to agree, the court shall fix such terms and conditions and the manner and extent of the use of the property by each of the parties.

1240.640. (a) Where property has been appropriated to public use by any person other than the state, the use thereof by the state for the same use or any other public use is presumed to be a more necessary use than the use to which such property has already been appropriated.

(b) Where property has been appropriated to public use by the state, the use thereof by the state is presumed to be a more necessary use than any use to which such property might be put by any other person.

(c) The presumptions established by this section are presumptions affecting the burden of proof.

1240.650. (a) Where property has been appropriated to public use by any person other than a public entity, the use thereof by a public entity for the same use or any other public use is a more necessary use than the use to which such property has already been appropriated.

(b) Where property has been appropriated to public use by a public entity, the use thereof by the public entity is a more necessary use than any use to which such property might be put by any person other than a public entity.

1240.660. Where property has been appropriated to public use by a local public entity, the use thereof by the local public entity is presumed to be a more necessary use than any use to which such property might be put by any other local public entity. The presumption established by this section is a presumption affecting the burden of proof.

1240.670. (a) Subject to Section 1240.690, notwithstanding any other provision of law, property is presumed to have been appropriated for the best and most necessary public use if all of the following are established:

(1) The property is owned by a nonprofit organization contributions to which are deductible for state and federal income tax purposes under the laws of this state and of the United States and having the primary purpose of preserving areas in their natural condition.

(2) The property is open to the public subject to reasonable restrictions and is appropriated, and used exclusively, for the preservation of native plants or native animals including, but not limited to, mammals, birds, and marine life, or biotic communities, or geological or geographical formations of scientific or educational interest.

(3) The property is irrevocably dedicated to such uses so that, upon liquidation, dissolution, or abandonment of or by the owner, such property will be distributed only to a fund, foundation, or corporation whose property is likewise irrevocably dedicated to such uses, or to a governmental agency holding land for such uses.

(b) The presumption established by this section is a presumption affecting the burden of proof.

1240.680. (a) Subject to Sections 1240.690 and 1240.700, notwithstanding any other provision of law, property is presumed to have been appropriated for the best and most necessary public use if the property is appropriated to public use as any of the following:

(1) A state, regional, county, or city park or recreation area.

(2) A wildlife or waterfowl management area established by the Department of Fish and Game pursuant to Section 1525 of the Fish and Game Code.

(3) A historic site included in the National Register of Historic Places or state-registered landmarks.

(4) An ecological reserve as provided for in Article 4 (commencing with Section 1580) of Chapter 5 of Division 2 of the Fish and Game Code.

(b) The presumption established by this section is a presumption affecting the burden of proof.

1240.690. (a) When property described in Section 1240.670 or Section 1240.680 is sought to be acquired for state highway purposes, and such property was dedicated or devoted to a use described in those sections prior to the initiation of highway route location studies, an action for declaratory relief may be brought by the public entity or nonprofit organization owning such property in the superior court to determine the question of which public use is the best and most necessary public use for such property.

(b) The action for declaratory relief shall be filed and served within 120 days after the California Highway Commission has published in a newspaper of general circulation pursuant to Section 6061 of the Government Code, and delivered to the public entity or nonprofit organization owning such property, a written notice that a proposed route or an adopted route includes such property. In the case of nonprofit organizations, the written notice need only be given to nonprofit organizations that are on file with the Registrar of Charitable Trusts of this state.

(c) In the declaratory relief action, the resolution of the California Highway Commission is not conclusive evidence of the matters set forth in Section 1240.030.

(d) With respect to property described in Section 1240.670 or

Section 1240.680 which is sought to be acquired for state highway purposes:

(1) If an action for declaratory relief is not filed and served within the 120-day period established by subdivision (b), the right to bring such action is waived and the provisions of Sections 1240.670 and 1240.680 do not apply.

(2) When a declaratory relief action may not be brought pursuant to this section, the provisions of Sections 1240.670 and 1240.680 do not apply.

1240.700. (a) When property described in Section 1240.680 is sought to be acquired for city or county road, street, or highway purposes, and such property was dedicated or devoted to regional park or recreational purposes prior to the initiation of road, street, or highway route location studies, an action for declaratory relief may be brought in the superior court by the regional park district which operates the park or recreational area to determine the question of which public use is the best and most necessary public use for such property.

(b) The action for declaratory relief shall be filed and served within 120 days after the city or county, as the case may be, has published in a newspaper of general circulation pursuant to Section 6061 of the Government Code, and delivered to the regional park district, a written notice that a proposed route or site or an adopted route includes such property.

(c) With respect to property dedicated or devoted to regional park or recreational purposes which is sought to be acquired for city or county road, street, or highway purposes:

(1) If an action for declaratory relief is not filed and served within the 120-day period established by subdivision (b), the right to bring such action is waived and the provisions of Section 1240.680 do not apply.

(2) When a declaratory relief action may not be brought pursuant to this section, the provisions of Section 1240.680 do not apply.

CHAPTER 4. PRECONDEMNATION ACTIVITIES

Article 1. Preliminary Location, Survey, and Tests

1245.010. Subject to requirements of this article, any person authorized to acquire property for a particular use by eminent domain may enter upon property to make photographs, studies, surveys, examinations, tests, soundings, borings, samplings, or appraisals or to engage in similar activities reasonably related to acquisition or use of the property for that use.

1245.020. In any case in which the entry and activities mentioned in Section 1245.010 will subject the person having the power of eminent domain to liability under Section 1245.060, before making such entry and undertaking such activities, the person shall secure:

(a) The written consent of the owner to enter upon his property

and to undertake such activities; or

(b) An order for entry from the superior court in accordance with Section 1245.030

1245.030. (a) The person seeking to enter upon the property may petition the court for an order permitting the entry and shall give such prior notice to the owner of the property as the court determines is appropriate under the circumstances of the particular case.

(b) Upon such petition and after such notice has been given, the court shall determine the purpose for the entry, the nature and scope of the activities reasonably necessary to accomplish such purpose, and the probable amount of compensation to be paid to the owner of the property for the actual damage to the property and interference with its possession and use.

(c) After such determination, the court may issue its order permitting the entry. The order shall prescribe the purpose for the entry and the nature and scope of the activities to be undertaken and shall require the person seeking to enter to deposit with the court the probable amount of compensation.

1245.040. (a) The court, after notice and hearing, may modify any of the provisions of an order made under Section 1245.030.

(b) If the amount required to be deposited is increased by an order of modification, the court shall specify the time within which the additional amount shall be deposited and may direct that any further entry or that specified activities under the order as modified be stayed until the additional amount has been deposited.

1245.050. (a) Unless sooner disbursed by court order, the amount deposited under this article shall be retained on deposit for six months following the termination of the entry. The period of retention may be extended by the court for good cause.

(b) The deposit shall be made in the Condemnation Deposits Fund in the State Treasury or, upon written request of the plaintiff filed with the deposit, in the county treasury. If made in the State Treasury, the deposit shall be held, invested, deposited, and disbursed in accordance with Article 10 (commencing with Section 16429) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

1245.060. (a) If the entry and activities upon property cause actual damage to or substantial interference with the possession or use of the property, whether or not a claim has been presented in compliance with Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code, the owner may recover for such damage or interference in a civil action or by application to the court under subdivision (c).

(b) The prevailing claimant in an action or proceeding under this section shall be awarded his costs and, if the court finds that any of the following occurred, his litigation expenses incurred in proceedings under this article:

(1) The entry was unlawful.

(2) The entry was lawful but the activities upon the property were abusive or lacking in due regard for the interests of the owner.

(3) There was a failure substantially to comply with the terms of an order made under Section 1245.030 or 1245.040.

(c) If funds are on deposit under this article, upon application of the owner, the court shall determine and award the amount the owner is entitled to recover under this section and shall order such amount paid out of the funds on deposit. If the funds on deposit are insufficient to pay the full amount of the award, the court shall enter judgment for the unpaid portion.

(d) Nothing in this section affects the availability of any other remedy the owner may have for the damaging of his property.

Article 2. Resolution of Necessity

1245.210. As used in this article, "governing body" means:

(a) In the case of a taking by a local public entity, the legislative body of the local public entity.

(b) In the case of a taking by the Sacramento and San Joaquin Drainage District, the State Reclamation Board.

(c) In the case of a taking by the State Public Works Board pursuant to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code, the State Public Works Board.

(d) In the case of a taking by the Department of Fish and Game pursuant to Section 1348 of the Fish and Game Code, the Wildlife Conservation Board.

(e) In the case of a taking by the Department of Transportation (other than a taking pursuant to Section 21633 of the Public Utilities Code or Section 30100 of the Streets and Highways Code), the California Highway Commission.

(f) In the case of a taking by the Department of Transportation pursuant to Section 21633 of the Public Utilities Code, the California Aeronautics Board.

(g) In the case of a taking by the Department of Transportation pursuant to Section 30100 of the Streets and Highways Code, the California Toll Bridge Authority.

(h) In the case of a taking by the Department of Water Resources, the California Water Commission.

(i) In the case of a taking for the University of California, the Regents of the University of California.

(j) In the case of a taking by the State Lands Commission, the State Lands Commission.

(k) In the case of a taking by Hasting's College of Law, the board of directors of that college.

1245.220. A public entity may not commence an eminent domain proceeding until its governing body has adopted a resolution of necessity that meets the requirements of this article.

1245.230. In addition to other requirements imposed by law, the

resolution of necessity shall contain all of the following:

(a) A general statement of the public use for which the property is to be taken and a reference to the statute that authorizes the public entity to acquire the property by eminent domain.

(b) A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification.

(c) A declaration that the governing body of the public entity has found and determined each of the following:

(1) The public interest and necessity require the proposed project.

(2) The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(3) The property described in the resolution is necessary for the proposed project.

1245.235. (a) The governing body of the public entity may adopt a resolution of necessity only after the governing body has given each person whose property is to be acquired by eminent domain and whose name and address appears on the last equalized county assessment roll notice and a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030.

(b) The notice required by subdivision (a) shall be sent by first-class mail to each person described in subdivision (a) and shall state all of the following:

(1) The intent of the governing body to adopt the resolution.

(2) The right of such person to appear and be heard on the matters referred to in Section 1240.030.

(3) Failure to file a written request to appear and be heard within 15 days after the notice was mailed will result in waiver of the right to appear and be heard.

(c) The governing body shall hold a hearing at which all persons described in subdivision (a) who filed a written request within 15 days after the notice prescribed in subdivision (b) was mailed may appear and be heard on the matters referred to in Section 1240.030. The governing body need not give an opportunity to appear and be heard to any person who fails to so file a written request.

(d) Notwithstanding subdivision (b), the governing body may satisfy the requirements of this section through any other procedure that has given each person described in subdivision (a) reasonable written personal notice and a reasonable opportunity to appear and be heard on the matters referred to in Section 1240.030.

1245.240. Unless a greater vote is required by statute, charter, or ordinance, the resolution shall be adopted by a vote of two-thirds of all the members of the governing body of the public entity.

1245.250. (a) Except as otherwise provided by statute, a resolution of necessity adopted by the governing body of the public entity pursuant to this article conclusively establishes the matters referred to in Section 1240.030.

(b) If the taking is by a local public entity and the property described in the resolution is not located entirely within the boundaries of the local public entity, the resolution of necessity creates a presumption that the matters referred to in Section 1240.030 are true. This presumption is a presumption affecting the burden of producing evidence.

(c) For the purposes of subdivision (b), a taking by the State Reclamation Board for the Sacramento and San Joaquin Drainage District is not a taking by a local public entity.

1245.255. A resolution of necessity does not have the effect prescribed in Section 1245.250 to the extent that its adoption or contents were influenced or affected by gross abuse of discretion by the governing body. Nothing in this section precludes a public entity from rescinding a resolution of necessity and adopting a new resolution as to the same property subject to the same consequences as a conditional dismissal of the proceeding under Section 1260.120

1245.260. (a) If a public entity has adopted a resolution of necessity but has not commenced an eminent domain proceeding to acquire the property within six months after the date of adoption of the resolution, the property owner may, by an action in inverse condemnation, do either or both of the following:

(1) Require the public entity to take the property and pay compensation therefor.

(2) Recover damages from the public entity for any interference with the possession and use of the property resulting from adoption of the resolution.

(b) No claim need be presented against a public entity under Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code as a prerequisite to commencement or maintenance of an action under subdivision (a), but any such action shall be commenced within one year and six months after the date the public entity adopted the resolution of necessity.

(c) A public entity may commence an eminent domain proceeding or rescind a resolution of necessity as a matter of right at any time before the property owner commences an action under this section. If the public entity commences an eminent domain proceeding or rescinds the resolution of necessity before the property owner commences an action under this section, the property owner may not thereafter bring an action under this section.

(d) After a property owner has commenced an action under this section, the public entity may rescind the resolution of necessity and abandon the taking of the property only under the same circumstances and subject to the same conditions and consequences as abandonment of an eminent domain proceeding.

(e) Commencement of an action under this section does not affect any authority a public entity may have to commence an eminent domain proceeding, take possession of the property pursuant to Article 3 (commencing with Section 1255.410) of

Chapter 6, or abandon the eminent domain proceeding.

(f) In lieu of bringing an action under subdivision (a) or if the limitations period provided in subdivision (b) has run, the property owner may obtain a writ of mandate to compel the public entity, within such time as the court deems appropriate, to rescind the resolution of necessity or to commence an eminent domain proceeding to acquire the property.

1245.270. (a) A resolution of necessity does not meet the requirements of this article if the defendant establishes by a preponderance of the evidence both of the following:

(1) A member of the governing body who voted in favor of the resolution received or agreed to receive a bribe (as that term is defined in subdivision 6 of Section 7 of the Penal Code) involving adoption of the resolution.

(2) But for the conduct described in paragraph (1), the resolution would not otherwise have been adopted.

(b) Where there has been a prior criminal prosecution of the member for the conduct described in paragraph (1) of subdivision (a), proof of conviction shall be conclusive evidence that the requirement of paragraph (1) of subdivision (a) is satisfied, and proof of acquittal or other dismissal of the prosecution shall be conclusive evidence that the requirement of paragraph (1) of subdivision (a) is not satisfied. Where there is a pending criminal prosecution of the member for the conduct described in paragraph (1) of subdivision (a), the court may take such action as is just under the circumstances of the case.

(c) Nothing in this section precludes a public entity from rescinding a resolution of necessity and adopting a new resolution as to the same property, subject to the same consequences as a conditional dismissal of the proceeding under Section 1260.120.

Article 3. Resolution Consenting to Eminent Domain Proceeding by Quasi-Public Entity

1245.310. As used in this article, "legislative body" means both of the following:

(a) The legislative body of each city within whose boundaries property sought to be taken by the quasi-public entity by eminent domain is located.

(b) If property sought to be taken by the quasi-public entity is not located within city boundaries, the legislative body of each county within whose boundaries such property is located.

1245.320. As used in this article, "quasi-public entity" means:

(a) An educational institution of collegiate grade not conducted for profit that seeks to take property by eminent domain under Section 30051 of the Education Code.

(b) A nonprofit hospital that seeks to take property by eminent domain under Section 1260 of the Health and Safety Code.

(c) A cemetery authority that seeks to take property by eminent

domain under Section 8501 of the Health and Safety Code.

(d) A limited-dividend housing corporation that seeks to take property by eminent domain under Section 34874 of the Health and Safety Code.

(e) A land-chest corporation that seeks to take property by eminent domain under Section 35167 of the Health and Safety Code.

(f) A mutual water company that seeks to take property by eminent domain under Section 2729 of the Public Utilities Code.

1245.330. Notwithstanding any other provision of law, a quasi-public entity may not commence an eminent domain proceeding to acquire any property until the legislative body has adopted a resolution consenting to the acquisition of such property by eminent domain.

1245.340. The resolution required by this article shall contain all of the following:

(a) A general statement of the public use for which the property is to be taken and a reference to the statute that authorizes the quasi-public entity to acquire the property by eminent domain.

(b) A description of the general location and extent of the property to be taken, with sufficient detail for reasonable identification.

(c) A declaration that the legislative body has found and determined each of the following:

(1) The public interest and necessity require the proposed project.

(2) The proposed project is planned or located in the manner that will be most compatible with the greatest good and least private injury.

(3) The property described in the resolution is necessary for the proposed project.

(4) The hardship to the quasi-public entity if the acquisition of the property by eminent domain is not permitted outweighs any hardship to the owners of such property.

1245.350. (a) The legislative body may refuse to consent to the acquisition with or without a hearing, but it may adopt the resolution required by this article only after the legislative body has held a hearing at which persons whose property is to be acquired by eminent domain have had a reasonable opportunity to appear and be heard.

(b) Notice of the hearing shall be sent by first-class mail to each person whose property is to be acquired by eminent domain if the name and address of the person appears on the last equalized county assessment roll (including the roll of state-assessed property). The notice shall state the time, place, and subject of the hearing and shall be mailed at least 15 days prior to the date of the hearing.

1245.360. The resolution required by this article shall be adopted by a vote of two-thirds of all the members of the legislative body.

1245.370. The legislative body may require that the quasi-public entity pay all of the costs reasonably incurred by the legislative body

under this article. The legislative body may require that such costs be secured by payment or deposit or other satisfactory security in advance of any action by the legislative body under this article.

1245.380. The requirement of this article is in addition to any other requirements imposed by law. Nothing in this article relieves the quasi-public entity from satisfying the requirements of Section 1240.030 or any other requirements imposed by law.

1245.390. The adoption of a resolution pursuant to this article does not make the city or county liable for any damages caused by the acquisition of the property or by the project for which it is acquired.

CHAPTER 5. COMMENCEMENT OF PROCEEDING

Article 1. Jurisdiction and Venue

1250.010. Except as otherwise provided in Section 1230.060 and in Chapter 12 (commencing with Section 1273.010), all eminent domain proceedings shall be commenced and prosecuted in the superior court.

1250.020. (a) Except as provided in subdivision (b), the proceeding shall be commenced in the county in which the property sought to be taken is located.

(b) When property sought to be taken is situated in more than one county, the plaintiff may commence the proceeding in any one of such counties.

1250.030. (a) Except as provided in subdivision (b), the county in which the proceeding is commenced pursuant to Section 1250.020 is the proper county for trial of the proceeding.

(b) Where the court changes the place of trial pursuant to Section 1250.040, the county to which the proceeding is transferred is the proper county for trial of the proceeding.

1250.040. The provisions of the Code of Civil Procedure for the change of place of trial of actions apply to eminent domain proceedings.

Article 2. Commencement of Proceeding Generally

1250.110. An eminent domain proceeding is commenced by filing a complaint with the court.

1250.120. (a) Except as provided in subdivision (b), the form and contents of the summons shall be as in civil actions generally.

(b) Where process is served by publication, in addition to the summons, the publication shall describe the property sought to be taken in a manner reasonably calculated to give persons with an interest in the property actual notice of the pending proceeding.

1250.125. (a) Where summons is served by publication, the publication may name only the defendants to be served thereby and describe only the property in which the defendants to be served

thereby have or claim interests.

(b) Judgment based on failure to appear and answer following service under this section shall be conclusive against the defendants named in respect only to property described in the publication.

1250.130. Where the court orders service by publication, it shall also order the plaintiff (1) to post a copy of the summons and complaint on the property sought to be taken and (2), if not already recorded, to record a notice of the pendency of the proceeding in the manner provided by Section 1250.150. Such posting and recording shall be done not later than 10 days after the date the order is made.

1250.140. Where the state is a defendant, the summons and the complaint shall be served on the Attorney General.

1250.150. The plaintiff, at the time of the commencement of the proceeding, shall record a notice of the pendency of the proceeding in the office of the county recorder of any county in which property described in the complaint is located.

Article 3. Parties; Joinder of Property

1250.210. Each person seeking to take property by eminent domain shall be named as a plaintiff.

1250.220. (a) The plaintiff shall name as defendants, by their real names, those persons who appear of record or are known by the plaintiff to have or claim an interest in the property described in the complaint.

(b) If a person described in subdivision (a) is dead and the plaintiff knows of a duly qualified and acting personal representative of the estate of such person, the plaintiff shall name such personal representative as a defendant. If a person described in subdivision (a) is dead or is believed by the plaintiff to be dead and if plaintiff knows of no duly qualified and acting personal representative of the estate of such person and states these facts in an affidavit filed with the complaint, plaintiff may name as defendants "the heirs and devisees of _____ (naming such deceased person), deceased, and all persons claiming by, through, or under said decedent," naming them in that manner and, where it is stated in the affidavit that such person is believed by the plaintiff to be dead, such person also may be named as a defendant.

(c) In addition to those persons described in subdivision (a), the plaintiff may name as defendants "all persons unknown claiming an interest in the property," naming them in that manner.

(d) A judgment rendered in a proceeding under this title is binding and conclusive upon all persons named as defendants as provided in this section and properly served.

1250.230. Any person who claims a legal or equitable interest in the property described in the complaint may appear in the proceeding. Whether or not such person is named as a defendant in the complaint, he shall appear as a defendant.

1250.240. The plaintiff may join in one complaint all property

located within the same county which is sought to be acquired for the same project.

Article 4. Pleadings

1250.310. The complaint shall contain all of the following:

(a) The names of all plaintiffs and defendants.

(b) A description of the property sought to be taken. The description may, but is not required to, indicate the nature or extent of the interest of the defendant in the property.

(c) If the plaintiff claims an interest in the property sought to be taken, the nature and extent of such interest.

(d) A statement of the right of the plaintiff to take by eminent domain the property described in the complaint. The statement shall include:

(1) A general statement of the public use for which the property is to be taken.

(2) An allegation of the necessity for the taking as required by Section 1240.030; where the plaintiff is a public entity, a reference to its resolution of necessity; where the plaintiff is a quasi-public entity within the meaning of Section 1245.320, a reference to the resolution adopted pursuant to Article 3 (commencing with Section 1245.310) of Chapter 4; where the plaintiff is a nonprofit hospital, a reference to the certificate required by Section 1260 of the Health and Safety Code; where the plaintiff is a public utility and relies on a certification of the State Energy Resources Conservation and Development Commission or a requirement of that commission that development rights be acquired, a reference to such certification or requirement.

(3) A reference to the statute that authorizes the plaintiff to acquire the property by eminent domain. Specification of the statutory authority may be in the alternative and may be inconsistent.

(e) A map or diagram portraying as far as practicable the property described in the complaint and showing its location in relation to the project for which it is to be taken.

1250.320. (a) The answer shall include a statement of the nature and extent of the interest the defendant claims in the property described in the complaint.

(b) Where the defendant seeks compensation provided in Article 6 (commencing with Section 1263.510) (goodwill) of Chapter 9, the answer shall include a statement that the defendant claims compensation under Section 1263.510, but the answer need not specify the amount of such compensation.

1250.325. (a) A defendant may file a disclaimer at any time, whether or not he is in default, and the disclaimer supersedes an answer previously filed by the defendant. The disclaimer need not be in any particular form. It shall contain a statement that the defendant claims no interest in the property or in the compensation

that may be awarded. Notwithstanding Section 1250.330, the disclaimer shall be signed by the defendant.

(b) Subject to subdivision (c), a defendant who has filed a disclaimer has no right to participate in further proceedings or to share in the compensation awarded.

(c) The court may implement the disclaimer by appropriate orders including, where justified, awarding costs and litigation expenses.

1250.330. Where a party is represented by an attorney, his pleading need not be verified but shall be signed by the attorney for the party. The signature of the attorney constitutes a certificate by him that he has read the pleading and that to the best of his knowledge, information, and belief there is ground to support it. If the pleading is not signed or is signed with intent to defeat the purposes of this section, it may be stricken.

1250.340. (a) Subject to subdivisions (b) and (c), the court may allow upon such terms and conditions as may be just an amendment or supplement to any pleading. In the case of an amendment or supplement to the complaint, such terms and conditions may include a change in the applicable date of valuation for the proceeding and an award of costs and litigation expenses which would not have been incurred had the proceeding as originally commenced been the same as the proceeding following such amendment or supplement.

(b) A public entity may add to the property sought to be taken only if it has adopted a resolution of necessity that satisfies the requirements of Article 2 (commencing with Section 1245.210) of Chapter 4 for the property to be added.

(c) Property previously sought to be taken may be deleted from the complaint only if the plaintiff has followed the procedure for partial abandonment of the proceeding as to that property.

1250.345. Subject to the power of the court to permit an amendment of the answer, if the defendant fails to object to the complaint, either by demurrer or answer, he is deemed to have waived the objection.

Article 5. Objections to Right to Take

1250.350. A defendant may object to the plaintiff's right to take, by demurrer or answer as provided in Section 430.30, on any ground authorized by Section 1250.360 or Section 1250.370. The demurrer or answer shall state the specific ground upon which the objection is taken and, if the objection is taken by answer, the specific facts upon which the objection is based. An objection may be taken on more than one ground, and the grounds may be inconsistent.

1250.360. Grounds for objection to the right to take, regardless of whether the plaintiff has adopted a resolution of necessity that satisfies the requirements of Article 2 (commencing with Section 1245.210) of Chapter 4, include:

(a) The plaintiff is not authorized by statute to exercise the power

of eminent domain for the purpose stated in the complaint.

(b) The stated purpose is not a public use.

(c) The plaintiff does not intend to devote the property described in the complaint to the stated purpose.

(d) There is no reasonable probability that the plaintiff will devote the described property to the stated purpose within (1) seven years, or (2) 10 years where the property is taken pursuant to the Federal Aid Highway Act of 1973, or (3) such longer period as is reasonable.

(e) The described property is not subject to acquisition by the power of eminent domain for the stated purpose.

(f) The described property is sought to be acquired pursuant to Section 1240.410 (excess condemnation), 1240.510 (condemnation for compatible use), or 1240.610 (condemnation for more necessary public use), but the acquisition does not satisfy the requirements of those provisions.

(g) The described property is sought to be acquired pursuant to Section 1240.610 (condemnation for more necessary public use), but the defendant has the right under Section 1240.630 to continue the public use to which the property is appropriated as a joint use.

(h) Any other ground provided by law.

1250.370. In addition to the grounds listed in Section 1250.360, grounds for objection to the right to take where the plaintiff has not adopted a resolution of necessity that conclusively establishes the matters referred to in Section 1240.030 include:

(a) The plaintiff is a public entity and has not adopted a resolution of necessity that satisfies the requirements of Article 2 (commencing with Section 1245.210) of Chapter 4.

(b) The public interest and necessity do not require the proposed project.

(c) The proposed project is not planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

(d) The property described in the complaint is not necessary for the proposed project.

(e) The plaintiff is a quasi-public entity within the meaning of Section 1245.320 and has not satisfied the requirements of Article 3 (commencing with Section 1245.310) of Chapter 4.

Article 6. Settlement Offers

1250.410. (a) At least 30 days prior to the date of trial, the plaintiff shall file with the court and serve on the defendant its final offer of compensation in the proceeding and the defendant shall file and serve on the plaintiff his final demand for compensation in the proceeding. Service shall be in the manner prescribed by Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(b) If the court, on motion of the defendant made within 30 days after entry of judgment, finds that the offer of the plaintiff was

unreasonable and that the demand of the defendant was reasonable viewed in the light of the evidence admitted and the compensation awarded in the proceeding, the costs allowed pursuant to Section 1268.710 shall include the defendant's litigation expenses. In determining the amount of such litigation expenses, the court shall consider any written revised or superseded offers and demands filed and served prior to or during trial.

CHAPTER 6. DEPOSIT AND WITHDRAWAL OF PROBABLE COMPENSATION; POSSESSION PRIOR TO JUDGMENT

Article 1. Deposit of Probable Compensation

1255.010. (a) At any time before entry of judgment, the plaintiff may deposit with the court the probable amount of compensation, based on an appraisal, that will be awarded in the proceeding. The appraisal upon which the deposit is based shall be one that satisfies the requirements of subdivision (b). The deposit may be made whether or not the plaintiff applies for an order for possession or intends to do so.

(b) Before making a deposit under this section, the plaintiff shall have an expert qualified to express an opinion as to the value of the property (1) make an appraisal of the property and (2) prepare a written statement of, or summary of the basis for, the appraisal.

(c) On noticed motion, or upon ex parte application in an emergency, the court may permit the plaintiff to make a deposit without prior compliance with subdivision (b) if the plaintiff presents facts by affidavit showing that (1) good cause exists for permitting an immediate deposit to be made, (2) an adequate appraisal has not been completed and cannot reasonably be prepared before making the deposit, and (3) the amount of the deposit to be made is not less than the probable amount of compensation that the plaintiff, in good faith, estimates will be awarded in the proceeding. In its order, the court shall require that the plaintiff comply with subdivision (b) within a reasonable time, to be specified in the order, and also that any additional amount of compensation shown by the appraisal required by subdivision (b) be deposited within that time.

1255.020. (a) On making a deposit pursuant to Section 1255.010, the plaintiff shall serve a notice of deposit on all parties who have appeared in the proceeding. The plaintiff shall so serve parties who appear thereafter on their appearance. The notice of deposit shall state that a deposit has been made and the date and the amount of the deposit. Service of the notice of deposit shall be made in the manner provided in Section 1255.450 for service of an order for possession.

(b) The notice of deposit shall be accompanied by a written statement or summary of the basis for the appraisal referred to in Section 1255.010.

(c) If the plaintiff has obtained an order under Section 1255.010 deferring completion of the written statement or summary, the plaintiff:

(1) On making the deposit, shall comply with subdivision (a) and include with the notice a copy of all affidavits on which the order was based.

(2) Upon completion of the written statement or summary, shall comply with subdivision (b).

1255.030. (a) At any time after a deposit has been made pursuant to this article, the court shall, upon motion of the plaintiff or of any party having an interest in the property for which the deposit was made, determine or redetermine whether the amount deposited is the probable amount of compensation that will be awarded in the proceeding.

(b) If the plaintiff has not taken possession of the property and the court determines that the probable amount of compensation exceeds the amount deposited, the court may order the plaintiff to increase the deposit or may deny the plaintiff possession of the property until the amount deposited has been increased to the amount specified in the order.

(c) If the plaintiff has taken possession of the property and the court determines that the probable amount of compensation exceeds the amount deposited, the court shall order the amount deposited to be increased to the amount determined to be the probable amount of compensation. If the amount on deposit is not increased accordingly within 30 days from the date of the court's order, or such longer time as the court may have allowed at the time of making the order, the defendant may serve on the plaintiff a notice of election to treat such failure as an abandonment of the proceeding. If the plaintiff does not cure its failure within 10 days after receipt of such notice, the court shall, upon motion of the defendant, enter judgment dismissing the proceeding and awarding the defendant his litigation expenses and damages as provided in Sections 1268.610 and 1268.620.

(d) After any amount deposited pursuant to this article has been withdrawn by a defendant, the court may not determine or redetermine the probable amount of compensation to be less than the total amount already withdrawn. Nothing in this subdivision precludes the court from making a determination or redetermination that probable compensation is greater than the amount withdrawn.

(e) If the court determines that the amount deposited exceeds the probable amount of compensation, it may permit the plaintiff to withdraw the excess not already withdrawn by the defendant.

(f) The plaintiff may at any time increase the amount deposited without making a motion under this section. In such case, notice of the increase shall be served as provided in subdivision (a) of Section 1255.020.

1255.040. (a) Where the plaintiff has not made a deposit that satisfies the requirements of this article and the property includes a dwelling containing not more than two residential units and the dwelling or one of its units is occupied as his residence by a defendant, such defendant may serve notice on the plaintiff requiring a deposit of the probable amount of compensation that will be awarded in the proceeding. The notice shall specify the date by which the defendant desires the deposit to be made. Such date shall not be earlier than 30 days after the date of service of the notice and may be any later date.

(b) If the plaintiff deposits the probable amount of compensation, determined or redetermined as provided in this article, on or before the date specified by the defendant, the plaintiff may, upon ex parte application to the court, obtain an order for possession that authorizes the plaintiff to take possession of the property 30 days after the date for the deposit specified by the defendant or such later date as the plaintiff may request.

(c) Notwithstanding Section 1268.310, if the deposit is not made on or before the date specified by the defendant or such later date as the court specifies on motion and good cause shown by the plaintiff, the compensation awarded to the defendant in the proceeding shall draw legal interest from that date. The defendant is entitled to the full amount of such interest without offset for rents or other income received by him or the value of his continued possession of the property.

(d) If the proceeding is abandoned by the plaintiff, the interest under subdivision (c) may be recovered as costs in the proceeding in the manner provided for the recovery of litigation expenses under Section 1268.610. If, in the proceeding, the court or a jury verdict eventually determines the compensation that would have been awarded to the defendant, then such interest shall be computed on the amount of such award. If no such determination is ever made, then such interest shall be computed on the probable amount of compensation as determined by the court.

(e) The serving of a notice pursuant to this section constitutes a waiver by operation of law, conditioned upon subsequent deposit by the plaintiff of the probable amount of compensation, of all claims and defenses in favor of the defendant except his claim for greater compensation.

(f) Notice of a deposit made under this section shall be served as provided by subdivision (a) of Section 1255.020. The defendant may withdraw the deposit as provided in Article 2 (commencing with Section 1255.210).

(g) No notice may be served by a defendant under subdivision (a) after entry of judgment unless the judgment is reversed, vacated, or set aside and no other judgment has been entered at the time the notice is served.

1255.050. If the property to be taken is subject to a leasehold interest and the plaintiff has not made a deposit that satisfies the

requirements of this article, the lessor may serve notice on the plaintiff requiring a deposit of the probable amount of compensation that will be awarded in the proceeding in the same manner and subject to the same procedures and conditions as a motion pursuant to Section 1255.040 except that, if the plaintiff fails to make the deposit, the interest awarded shall be offset by the lessor's net rental profits on the property.

1255.060. (a) The amount deposited or withdrawn pursuant to this chapter shall not be given in evidence or referred to in the trial of the issue of compensation.

(b) In the trial of the issue of compensation, a witness may not be impeached by reference to any appraisal report, written statement and summary of an appraisal, or other statements made in connection with a deposit or withdrawal pursuant to this chapter, nor shall such a report or statement and summary be considered to be an admission of any party.

(c) Upon objection of the party at whose request an appraisal report, written statement and summary of the appraisal, or other statement was made in connection with a deposit or withdrawal pursuant to this chapter, the person who made such report or statement and summary or other statement may not be called at the trial on the issue of compensation by any other party to give an opinion as to compensation.

1255.070. When money is deposited as provided in this article, the court shall order the money to be deposited in the State Treasury or, upon written request of the plaintiff filed with the deposit, in the county treasury. If money is deposited in the State Treasury pursuant to this section, it shall be held, invested, deposited, and disbursed in the manner specified in Article 10 (commencing with Section 16429) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, and interest earned or other increment derived from its investment shall be apportioned and disbursed in the manner specified in that article. As between the parties to the proceeding, money deposited pursuant to this article shall remain at the risk of the plaintiff until paid or made payable to the defendant by order of the court.

1255.075. (a) Prior to entry of judgment, a defendant who has an interest in the property for which a deposit has been made under this chapter may, upon notice to the other parties to the proceeding, move the court to have all of such deposit invested for the benefit of the defendants.

(b) At the hearing on the motion, the court shall consider the interests of the parties and the effect that investment would have upon them. The court may, in its discretion, if it finds that the interests of justice will be served, grant the motion subject to such terms and conditions as are appropriate under the circumstances of the case.

(c) An investment under this section shall be specified by the court and shall be limited to United States government obligations

or interest-bearing accounts in an institution whose accounts are insured by an agency of the federal government.

(d) The investment of the deposit has the same consequences as if the deposit has been withdrawn under this chapter.

1255.080. By depositing the probable compensation pursuant to this article, the plaintiff does not waive the right to appeal from the judgment, the right to move to abandon, or the right to request a new trial.

Article 2. Withdrawal of Deposit

1255.210. Prior to entry of judgment, any defendant may apply to the court for the withdrawal of all or any portion of the amount deposited. The application shall be verified, set forth the applicant's interest in the property, and request withdrawal of a stated amount. The applicant shall serve a copy of the application on the plaintiff.

1255.220. Subject to the requirements of this article, the court shall order the amount requested in the application, or such portion of that amount as the applicant is entitled to receive, to be paid to the applicant.

1255.230. (a) No withdrawal may be ordered until 20 days after service on the plaintiff of a copy of the application or until the time for all objections has expired, whichever is later.

(b) Within the 20-day period, the plaintiff may file objections to withdrawal on any one or more of the following grounds:

(1) Other parties to the proceeding are known or believed to have interests in the property.

(2) An undertaking should be filed by the applicant as provided in Section 1255.240 or 1255.250.

(3) The amount of an undertaking filed by the applicant under this chapter or the sureties thereon are insufficient.

(c) If an objection is filed on the ground that other parties are known or believed to have interests in the property, the plaintiff shall serve or attempt to serve on such other parties a notice that they may appear within 10 days after such service and object to the withdrawal. The notice shall advise such parties that their failure to object will result in waiver of any rights against the plaintiff to the extent of the amount withdrawn. The notice shall be served in the manner provided in Section 1255.450 for service of an order for possession. The plaintiff shall file, and serve on the applicant, a report setting forth (1) the names of the parties upon whom the notice was served and the dates of service and (2) the names and last known addresses of the other parties who are known or believed to have interests in the property but who were not so served. The applicant may serve parties whom the plaintiff has been unable to serve. Parties served in the manner provided in Section 1255.450 shall have no claim against the plaintiff for compensation to the extent of the amount withdrawn by all applicants. The plaintiff shall remain liable to parties having an interest of record who are not so served but, if

such liability is enforced, the plaintiff shall be subrogated to the rights of such parties under Section 1255.280.

(d) If any party objects to the withdrawal, or if the plaintiff so requests, the court shall determine, upon hearing, the amounts to be withdrawn, if any, and by whom.

1255.240. (a) If the court determines that an applicant is entitled to withdraw any portion of a deposit that another party claims or to which another person may be entitled, the court may require the applicant, before withdrawing such portion, to file an undertaking. The undertaking shall secure payment to such party or person of any amount withdrawn that exceeds the amount to which the applicant is entitled as finally determined in the proceeding, together with interest as provided in Section 1255.280. If withdrawal is permitted notwithstanding the lack of personal service of the application for withdrawal upon any party to the proceeding, the court may also require that the undertaking indemnify the plaintiff against any liability it may incur under Section 1255.230. The undertaking shall be in such amount as is fixed by the court, but if executed by an admitted surety insurer the amount shall not exceed the portion claimed by the adverse claimant or appearing to belong to another person. The undertaking may be executed by two or more sufficient sureties approved by the court, and in such case the amount shall not exceed double such portion.

(b) Unless the undertaking is required primarily because of an issue as to title between the applicant and another party or person, if the undertaking is executed by an admitted surety insurer, the applicant filing the undertaking is entitled to recover the premium reasonably paid for the undertaking as a part of the recoverable costs in the eminent domain proceeding.

1255.250. (a) If the amount originally deposited is increased pursuant to Section 1255.030 and the total amount sought to be withdrawn exceeds the amount of the original deposit, the applicant, or each applicant if there are two or more, shall file an undertaking. The undertaking shall be in favor of the plaintiff and shall secure repayment of any amount withdrawn that exceeds the amount to which the applicant is entitled as finally determined in the eminent domain proceeding, together with interest as provided in Section 1255.280. If the undertaking is executed by an admitted surety insurer, the undertaking shall be in the amount by which the total amount to be withdrawn exceeds the amount originally deposited. The undertaking may be executed by two or more sufficient sureties approved by the court, and in such case the undertaking shall be in double such amount, but the maximum amount that may be recovered from such sureties is the amount by which the total amount to be withdrawn exceeds the amount originally deposited.

(b) If there are two or more applicants, the applicants, in lieu of filing separate undertakings, may jointly file a single undertaking in the amount required by subdivision (a).

(c) The plaintiff may waive the undertaking required by this

section or may consent to an undertaking that is less than the amount stated by this section.

(d) If the undertaking is executed by an admitted surety insurer, the applicant filing the undertaking may recover the premium reasonably paid for the undertaking as a part of the costs in the eminent domain proceeding.

1255.260. If any portion of the money deposited pursuant to this chapter is withdrawn, the receipt of any such money shall constitute a waiver by operation of law of all claims and defenses in favor of the persons receiving such payment except a claim for greater compensation.

1255.280. (a) Any amount withdrawn by a party pursuant to this article in excess of the amount to which he is entitled as finally determined in the eminent domain proceeding shall be paid to the parties entitled thereto. The court shall enter judgment accordingly.

(b) The judgment so entered shall not include interest except in the following cases:

(1) Any amount that is to be paid to a defendant shall include legal interest from the date of its withdrawal by another defendant.

(2) If the amount originally deposited by a plaintiff was increased pursuant to Section 1255.030 on motion of a party obligated to pay under this section, any amount that is attributable to such increase and that is to be repaid to the plaintiff shall include legal interest from the date of its withdrawal.

(c) If the judgment so entered is not paid within 30 days after its entry, the court may, on motion, enter judgment against the sureties, if any, for the amount of such judgment.

(d) The court may, in its discretion and with such security, if any, as it deems appropriate, grant a party obligated to pay under this section a stay of execution for any amount to be paid to a plaintiff. Such stay of execution shall not exceed one year following entry of judgment under this section.

Article 3. Possession Prior to Judgment

1255.410. (a) At the time of filing the complaint or at any time after filing the complaint and prior to entry of judgment, the plaintiff may apply ex parte to the court for an order for possession under this article, and the court shall make an order authorizing the plaintiff to take possession of the property if the plaintiff is entitled to take the property by eminent domain and has deposited pursuant to Article 1 (commencing with Section 1255.010) an amount that satisfies the requirements of that article.

(b) The order for possession shall describe the property of which the plaintiff is authorized to take possession, which description may be by reference to the complaint, and shall state the date after which the plaintiff is authorized to take possession of the property.

(c) Notwithstanding the time limits for notice prescribed by Section 1255.450, if the court finds that the plaintiff has an urgent

need for possession of property and that possession will not displace or unreasonably affect any person in actual and lawful possession of the property to be taken or the larger parcel of which it is a part, the court may make an order for possession of such property upon such notice, not less than three days, as the court deems appropriate under the circumstances of the case.

1255.420. Not later than 30 days after service of an order authorizing the plaintiff to take possession of property under Section 1255.410, any defendant or occupant of the property may move for relief from the order if the hardship to him of having possession taken at the time specified in the order is substantial. If the court determines that the hardship to the defendant or occupant is substantial, the court may stay the order until a date certain or impose terms and conditions limiting its operation unless, upon considering all relevant facts (including the schedule or plan of operation for execution of the public improvement and the situation of the property with respect to such schedule or plan), the court further determines (a) that the plaintiff needs possession of the property within the time specified in the order for possession and (b) that the hardship the plaintiff would suffer as a result of a stay or limitation of the order would be substantial.

1255.430. If the plaintiff has been authorized to take possession of property under Section 1255.410 and the defendant has objected to the plaintiff's right to take the property by eminent domain, the court, if it finds there is a reasonable probability the defendant will prevail, shall stay the order for possession until it has ruled on the defendant's objections.

1255.440. If an order has been made under Section 1255.410 authorizing the plaintiff to take possession of property and the court subsequently determines that the conditions specified in Section 1255.410 for issuance of the order are not satisfied, the court shall vacate the order.

1255.450. (a) As used in this section, "record owner" means the owner of the legal or equitable title to the fee or any lesser interest in property as shown by recorded deeds or other recorded instruments.

(b) The plaintiff shall serve a copy of the order for possession issued under Section 1255.410 on the record owner of the property and on the occupants, if any. If the property is lawfully occupied by a person dwelling thereon or by a farm or business operation, service shall be made not less than 90 days prior to the time possession is to be taken pursuant to the order. In all other cases, service shall be made not less than 30 days prior to the time possession is to be taken pursuant to the order. Service may be made with or following service of summons.

(c) At least 30 days prior to the time possession is taken pursuant to an order for possession made pursuant to Section 1255.040, 1255.050, or 1255.460, the plaintiff shall serve a copy of the order on the record owner of the property and on the occupants, if any.

(d) Service of the order shall be made by personal service except that:

(1) If the person on whom service is to be made has previously appeared in the proceeding or been served with summons in the proceeding, service of the order may be made by mail upon such person and his attorney of record, if any.

(2) If the person on whom service is to be made resides out of the state, or has departed from the state or cannot with due diligence be found within the state, service of the order may be made by registered or certified mail addressed to such person at his last known address.

(e) The court may, for good cause shown on ex parte application, authorize the plaintiff to take possession of the property without serving a copy of the order for possession upon a record owner not occupying the property.

(f) A single service upon or mailing to one of several persons having a common business or residence address is sufficient.

1255.460 (a) Upon ex parte application, the court shall make an order authorizing the plaintiff to take possession of the property if the court determines that the plaintiff has deposited probable compensation pursuant to Article 1 (commencing with Section 1255.010) and that each of the defendants entitled to possession has done either of the following:

(1) Expressed in writing his willingness to surrender possession of the property on or after a stated date.

(2) Withdrawn any portion of the deposit.

(b) The order for possession shall:

(1) Recite that it has been made under this section.

(2) Describe the property to be acquired, which description may be by reference to the complaint.

(3) State the date after which plaintiff is authorized to take possession of the property. Unless the plaintiff requests a later date, such date shall be the date stated by the defendant or, if a portion of the deposit is withdrawn, the earliest date on which the plaintiff would be entitled to take possession of the property under subdivision (c) of Section 1255.450.

1255.470. By taking possession pursuant to this chapter, the plaintiff does not waive the right to appeal from the judgment, the right to move to abandon, or the right to request a new trial.

1255.480. Nothing in this article limits the right of a public entity to exercise its police power in emergency situations.

CHAPTER 7. DISCOVERY; EXCHANGE OF VALUATION DATA

Article 1. Discovery

1258.010. The provisions of this chapter supplement but do not replace, restrict, or prevent the use of discovery procedures or limit the matters that are discoverable in eminent domain proceedings.

1258.020. (a) Notwithstanding Section 2016 or any court rule relating to discovery, proceedings pursuant to subdivision (b) may be had without requirement of court order and may proceed until not later than 20 days prior to the day set for trial of the issue of compensation.

(b) A party to an exchange of lists of expert witnesses and statements of valuation data pursuant to Article 2 (commencing with Section 1258.210) or pursuant to court rule as provided in Section 1258.300 may after the time of the exchange obtain discovery from the other party to the exchange and from any person listed by him as an expert witness.

(c) The court, upon noticed motion by the person subjected to discovery pursuant to subdivision (b), may make any order that justice requires to protect such person from annoyance, embarrassment, or oppression.

1258.030. Nothing in this chapter makes admissible any evidence that is not otherwise admissible or permits a witness to base an opinion on any matter that is not a proper basis for such an opinion.

Article 2. Exchange of Valuation Data

1258.210. (a) Not later than the 10th day after the trial date is selected, any party may file and serve on any other party a demand to exchange lists of expert witnesses and statements of valuation data. Thereafter, the court may, upon noticed motion and a showing of good cause, permit any party to serve such a demand upon any other party.

(b) The demand shall:

(1) Describe the property to which it relates, which description may be by reference to the complaint.

(2) Include a statement in substantially the following form: "You are required to serve and deposit with the clerk of court a list of expert witnesses and statements of valuation data in compliance with Article 2 (commencing with Section 1258.210) of Chapter 7 of Title 7 of Part 3 of the Code of Civil Procedure not later than the date of exchange to be set in accordance with that article. Except as otherwise provided in that article, your failure to do so will constitute a waiver of your right to call unlisted expert witnesses during your case in chief and of your right to introduce on direct examination during your case in chief any matter that is required to be, but is not, set forth in your statements of valuation data."

1258.220. For the purposes of this article, the "date of exchange"

is the date agreed to for the exchange of their lists of expert witnesses and statements of valuation data by the party who served a demand and the party on whom the demand was served or, failing such agreement, a date 40 days prior to commencement of the trial on the issue of compensation or the date set by the court on noticed motion of either party establishing good cause therefor.

1258.230. (a) Not later than the date of exchange:

(1) Each party who served a demand and each party upon whom a demand was served shall deposit with the clerk of the court a list of expert witnesses and statements of valuation data.

(2) A party who served a demand shall serve his list and statements upon each party on whom he served his demand.

(3) Each party on whom a demand was served shall serve his list and statements upon the party who served the demand.

(b) The clerk of the court shall make an entry in the register of actions for each list of expert witnesses and statement of valuation data deposited with him pursuant to this article. The lists and statements shall not be filed in the proceeding, but the clerk shall make them available to the court at the commencement of the trial for the limited purpose of enabling the court to apply the provisions of this article. Unless the court otherwise orders, the clerk shall, at the conclusion of the trial, return all lists and statements to the attorneys for the parties who deposited them. Lists or statements ordered by the court to be retained may thereafter be destroyed or otherwise disposed of in accordance with the provisions of law governing the destruction or disposition of exhibits introduced in the trial.

1258.240. The list of expert witnesses shall include the name, business or residence address, and business, occupation, or profession of each person intended to be called as an expert witness by the party and a statement of the subject matter to which his testimony relates.

1258.250. A statement of valuation data shall be exchanged for each person the party intends to call as a witness to testify to his opinion as to any of the following matters:

(a) The value of the property being taken.

(b) The amount of the damage, if any, to the remainder of the larger parcel from which such property is taken.

(c) The amount of the benefit, if any, to the remainder of the larger parcel from which such property is taken.

(d) The amount of any other compensation required to be paid by Chapter 9 (commencing with Section 1263.010) or Chapter 10 (commencing with Section 1265.010).

1258.260. (a) The statement of valuation data shall give the name and business or residence address of the witness and shall include a statement whether the witness will testify to an opinion as to any of the matters listed in Section 1258.250 and, as to each such matter upon which he will give an opinion, what that opinion is and the following items to the extent that the opinion on such matter is based thereon:

(1) The interest being valued.

(2) The date of valuation used by the witness.

(3) The highest and best use of the property.

(4) The applicable zoning and the opinion of the witness as to the probability of any change in such zoning.

(5) The sales, contracts to sell and purchase, and leases supporting the opinion.

(6) The cost of reproduction or replacement of the existing improvements on the property, the depreciation or obsolescence the improvements have suffered, and the method of calculation used to determine depreciation.

(7) The gross income from the property, the deductions from gross income, and the resulting net income; the reasonable net rental value attributable to the land and existing improvements thereon, and the estimated gross rental income and deductions therefrom upon which such reasonable net rental value is computed; the rate of capitalization used; and the value indicated by such capitalization.

(8) If the property is a portion of a larger parcel, a description of the larger parcel and its value.

(b) With respect to each sale, contract, or lease listed under paragraph (5) of subdivision (a), the statement of valuation data shall give:

(1) The names and business or residence addresses, if known, of the parties to the transaction.

(2) The location of the property subject to the transaction.

(3) The date of the transaction.

(4) If recorded, the date of recording and the volume and page or other identification of the record of the transaction.

(5) The price and other terms and circumstances of the transaction. In lieu of stating the terms contained in any contract, lease, or other document, the statement may, if the document is available for inspection by the adverse party, state the place where and the times when it is available for inspection.

(c) If any opinion referred to in Section 1258.250 is based in whole or in substantial part upon the opinion of another person, the statement of valuation data shall include the name and business or residence address of such other person, his business, occupation, or profession, and a statement as to the subject matter to which his opinion relates.

(d) Except when an appraisal report is used as a statement of valuation data as permitted by subdivision (e), the statement of valuation data shall include a statement, signed by the witness, that the witness has read the statement of valuation data and that it fairly and correctly states his opinions and knowledge as to the matters therein stated.

(e) An appraisal report that has been prepared by the witness which includes the information required to be included in a statement of valuation data may be used as a statement of valuation data under this article.

1258.270. (a) A party who is required to exchange lists of expert witnesses and statements of valuation data shall diligently give notice to the parties upon whom his list and statements were served if, after service of his list and statements, he:

(1) Determines to call an expert witness not included in his list of expert witnesses to testify on direct examination during his case in chief;

(2) Determines to have a witness called by him testify on direct examination during his case in chief to any opinion or data required to be listed in the statement of valuation data for that witness but which was not so listed; or

(3) Discovers any data required to be listed in a statement of valuation data but which was not so listed.

(b) The notice required by subdivision (a) shall include the information specified in Sections 1258.240 and 1258.260 and shall be in writing; but such notice is not required to be in writing if it is given after the commencement of the trial.

1258.280. Except as provided in Section 1258.290, upon objection of a party who has served his list of expert witnesses and statements of valuation data in compliance with Section 1258.230:

(a) No party required to serve a list of expert witnesses on the objecting party may call an expert witness to testify on direct examination during his case in chief unless the information required by Section 1258.240 for such witness is included in the list served.

(b) No party required to serve statements of valuation data on the objecting party may call a witness to testify on direct examination during his case in chief to his opinion on any matter listed in Section 1258.250 unless a statement of valuation data for such witness was served.

(c) No witness called by a party required to serve statements of valuation data on the objecting party may testify on direct examination during the case in chief of the party who called him to any opinion or data required to be listed in the statement of valuation data for such witness unless such opinion or data is listed in the statement served except that testimony that is merely an explanation or elaboration of data so listed is not inadmissible under this subdivision.

1258.290. (a) The court may, upon such terms as may be just (including but not limited to continuing the trial for a reasonable period of time and awarding costs and litigation expenses), permit a party to call a witness, or permit a witness called by a party to testify to an opinion or data on direct examination, during the party's case in chief where such witness, opinion, or data is required to be, but is not, included in such party's list of expert witnesses or statements of valuation data if the court finds that such party has made a good faith effort to comply with Sections 1258.210 to 1258.260, inclusive, that he has complied with Section 1258.270, and that by the date of exchange he:

(1) Would not in the exercise of reasonable diligence have

determined to call such witness or discovered or listed such opinion or data; or

(2) Failed to determine to call such witness or to discover or list such opinion or data through mistake, inadvertence, surprise, or excusable neglect.

(b) In making a determination under this section, the court shall take into account the extent to which the opposing party has relied upon the list of expert witnesses and statements of valuation data and will be prejudiced if the witness is called or the testimony concerning such opinion or data is given.

1258.300. The superior court in any county may provide by court rule a procedure for the exchange of valuation data which shall be used in lieu of the procedure provided by this article if the Judicial Council finds that such procedure serves the same purpose and is an adequate substitute for the procedure provided by this article

CHAPTER 8. PROCEDURES FOR DETERMINING RIGHT TO TAKE AND COMPENSATION

Article 1. General Provisions

1260.010. Proceedings under this title take precedence over all other civil actions in the matter of setting the same for hearing or trial in order that such proceedings shall be quickly heard and determined.

1260.020. (a) If proceedings to acquire the same property are consolidated, the court shall first determine whether the public uses for which the property is sought are compatible within the meaning of Article 6 (commencing with Section 1240.510) of Chapter 3. If the court determines that the uses are compatible, it shall permit the proceeding to continue with the plaintiffs acting jointly. The court shall apportion the obligation to pay any award in the proceeding in proportion to the use, damage, and benefits attributable to each plaintiff.

(b) If the court determines pursuant to subdivision (a) that the uses are not all compatible, it shall further determine which of the uses is the more necessary public use within the meaning of Article 7 (commencing with Section 1240.610) of Chapter 3. The court shall permit the plaintiff alleging the more necessary public use, along with any other plaintiffs alleging compatible public uses under subdivision (a), to continue the proceeding. The court shall dismiss the proceeding as to the other plaintiffs.

1260.030. (a) If there is a dispute between plaintiff and defendant whether particular property is an improvement pertaining to the realty, either party may, not later than 30 days prior to the date specified in an order for possession of the property, move the court for a determination whether the property is an improvement pertaining to the realty.

(b) A motion under this section shall be heard not sooner than 10

days and not later than 20 days after service of notice of the motion. At the hearing, the court may consider any relevant evidence, including a view of the premises and property, in making its determinations.

Article 2. Contesting Right to Take

1260.110. (a) Where objections to the right to take are raised, unless the court orders otherwise, they shall be heard and determined prior to the determination of the issue of compensation.

(b) The court may, on motion of any party, after notice and hearing, specially set such objections for trial.

1260.120. (a) The court shall hear and determine all objections to the right to take.

(b) If the court determines that the plaintiff has the right to acquire by eminent domain the property described in the complaint, the court shall so order.

(c) If the court determines that the plaintiff does not have the right to acquire by eminent domain any property described in the complaint, it shall order either of the following:

(1) Immediate dismissal of the proceeding as to that property.

(2) Conditional dismissal of the proceeding as to that property unless such corrective and remedial action as the court may prescribe has been taken within the period prescribed by the court in the order. An order made under this paragraph may impose such limitations and conditions as the court determines to be just under the circumstances of the particular case including the requirement that the plaintiff pay to the defendant all or part of the reasonable litigation expenses necessarily incurred by the defendant because of the plaintiff's failure or omission which constituted the basis of the objection to the right to take.

Article 3. Procedures Relating to Determination of Compensation

1260.210. (a) The defendant shall present his evidence on the issue of compensation first and shall commence and conclude the argument.

(b) Except as otherwise provided by statute, neither the plaintiff nor the defendant has the burden of proof on the issue of compensation.

1260.220. (a) Except as provided in subdivision (b), where there are divided interests in property acquired by eminent domain, the value of each interest and the injury, if any, to the remainder of such interest shall be separately assessed and compensation awarded therefor.

(b) The plaintiff may require that the amount of compensation be first determined as between plaintiff and all defendants claiming an interest in the property. Thereafter, in the same proceeding, the

trier of fact shall determine the respective rights of the defendants in and to the amount of compensation awarded and shall apportion the award accordingly. Nothing in this subdivision limits the right of a defendant to present during the first stage of the proceeding evidence of the value of, or injury to, his interest in the property; and the right of a defendant to present evidence during the second stage of the proceeding is not affected by his failure to exercise his right to present evidence during the first stage of the proceeding.

1260.230. As far as practicable, the trier of fact shall assess separately each of the following:

(a) Compensation for the property taken as required by Article 4 (commencing with Section 1263.310) of Chapter 9.

(b) Where the property acquired is part of a larger parcel:

(1) The amount of the damage, if any, to the remainder as required by Article 5 (commencing with Section 1263.410) of Chapter 9.

(2) The amount of the benefit, if any, to the remainder as required by Article 5 (commencing with Section 1263.410) of Chapter 9.

(c) Compensation for loss of goodwill, if any, as required by Article 6 (commencing with Section 1263.510) of Chapter 9.

1260.240. Where any persons unknown or any deceased persons or the heirs and devisees of any deceased persons have been properly joined as defendants but have not appeared either personally or by a personal representative, the court shall determine the extent of the interests of such defendants in the property taken or in the remainder if the property taken is part of a larger parcel and the compensation to be awarded for such interests. The court may determine the extent and value of the interests of all such defendants in the aggregate without apportionment between the respective defendants. In any event, in the case of deceased persons, the court shall determine only the extent and value of the interest of the decedent and shall not determine the extent and value of the separate interests of the heirs and devisees in such decedent's interest.

CHAPTER 9. COMPENSATION

Article 1. General Provisions

1263.010. (a) The owner of property acquired by eminent domain is entitled to compensation as provided in this chapter.

(b) Nothing in this chapter affects any rights the owner of property acquired by eminent domain may have under any other statute. In any case where two or more statutes provide compensation for the same loss, the person entitled to compensation may be paid only once for that loss.

1263.020. Except as otherwise provided by law, the right to compensation shall be deemed to have accrued at the date of filing the complaint.

Article 2. Date of Valuation

1263.110. (a) Unless an earlier date of valuation is applicable under this article, if the plaintiff deposits the probable compensation in accordance with Article 1 (commencing with Section 1255 010) of Chapter 6 or the amount of the award in accordance with Article 2 (commencing with Section 1268.110) of Chapter 11, the date of valuation is the date on which the deposit is made.

(b) Whether or not the plaintiff has taken possession of the property or obtained an order for possession, if the court determines pursuant to Section 1255.030 that the probable amount of compensation exceeds the amount previously deposited pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6 and the amount on deposit is not increased accordingly within the time allowed under Section 1255.030, no deposit shall be deemed to have been made for the purpose of this section.

1263.120. If the issue of compensation is brought to trial within one year after commencement of the proceeding, the date of valuation is the date of commencement of the proceeding.

1263.130. Subject to Section 1263.110, if the issue of compensation is not brought to trial within one year after commencement of the proceeding, the date of valuation is the date of the commencement of the trial unless the delay is caused by the defendant, in which case the date of valuation is the date of commencement of the proceeding.

1263.140. Subject to Section 1263.110, if a new trial is ordered by the trial or appellate court and the new trial is not commenced within one year after the commencement of the proceeding, the date of valuation is the date of the commencement of such new trial unless, in the interest of justice, the court ordering the new trial orders a different date of valuation

1263.150. Subject to Section 1263.110, if a mistrial is declared and the retrial is not commenced within one year after the commencement of the proceeding, the date of valuation is the date of the commencement of the retrial of the case unless, in the interest of justice, the court declaring the mistrial orders a different date of valuation.

Article 3. Compensation for Improvements

1263.205. (a) As used in this article, "improvements pertaining to the realty" include any machinery or equipment installed for use on property taken by eminent domain, or on the remainder if such property is part of a larger parcel, that cannot be removed without a substantial economic loss or without substantial damage to the property on which it is installed, regardless of the method of installation.

(b) In determining whether particular property can be removed "without a substantial economic loss" within the meaning of this

section, the value of the property in place considered as a part of the realty should be compared with its value if it were removed and sold.

1263.210. (a) Except as otherwise provided by statute, all improvements pertaining to the realty shall be taken into account in determining compensation.

(b) Subdivision (a) applies notwithstanding the right or obligation of a tenant, as against the owner of any other interest in real property, to remove such improvement at the expiration of his term.

1263.230. (a) Improvements pertaining to the realty shall not be taken into account in determining compensation to the extent that they are removed or destroyed before the earliest of the following times:

(1) The time the plaintiff takes title to the property.

(2) The time the plaintiff takes possession of the property.

(3) If the defendant moves from the property in compliance with an order for possession, the date specified in the order; except that, if the defendant so moves prior to such date and gives the plaintiff written notice thereof, the date 24 hours after such notice is received by the plaintiff.

(b) Where improvements pertaining to the realty are removed or destroyed by the defendant at any time, such improvements shall not be taken into account in determining compensation. Where such removal or destruction damages the remaining property, such damage shall be taken into account in determining compensation to the extent it reduces the value of the remaining property.

1263.240. Improvements pertaining to the realty made subsequent to the date of service of summons shall not be taken into account in determining compensation unless one of the following is established:

(a) The improvement is one required to be made by a public utility to its utility system.

(b) The improvement is one made with the written consent of the plaintiff.

(c) The improvement is one authorized to be made by a court order issued after a noticed hearing and upon a finding by the court that the hardship to the defendant of not permitting the improvement outweighs the hardship to the plaintiff of permitting the improvement. The court may, at the time it makes an order under this subdivision authorizing the improvement to be made, limit the extent to which the improvement shall be taken into account in determining compensation.

1263.250. (a) The acquisition of property by eminent domain shall not prevent the defendant from harvesting and marketing crops planted before or after the service of summons. If the plaintiff takes possession of the property at a time that prevents the defendant from harvesting and marketing the crops, the fair market value of the crops in place at the date the plaintiff is authorized to take possession of the property shall be included in the compensation

awarded for the property taken.

(b) Notwithstanding subdivision (a), the plaintiff may obtain a court order precluding the defendant from planting crops after service of summons, in which case the compensation awarded for the property taken shall include an amount sufficient to compensate for loss caused by the limitation on the defendant's right to use the property.

1263.260. Notwithstanding Section 1263.210, the owner of improvements pertaining to the realty may elect to remove any or all such improvements by serving on the plaintiff within 60 days after service of summons written notice of such election. If the plaintiff fails within 30 days thereafter to serve on the owner written notice of refusal to allow removal of such improvements, the owner may remove such improvements and shall be compensated for their reasonable removal and relocation cost not to exceed the market value of the improvements. Where such removal will cause damage to the structure in which the improvements are located, the defendant shall cause no more damage to the structure than is reasonably necessary in removing the improvements, and the structure shall be valued as if the removal had caused no damage to the structure.

1263.270. Where an improvement pertaining to the realty is located in part upon property taken and in part upon property not taken, the court may, on motion of any party and a determination that justice so requires, direct the plaintiff to acquire the entire improvement, including the part located on property not taken, together with an easement or other interest reasonably necessary for the demolition, removal, or relocation of the improvement.

Article 4. Measure of Compensation for Property Taken

1263.310. Compensation shall be awarded for the property taken. The measure of this compensation is the fair market value of the property taken.

1263.320. (a) The fair market value of the property taken is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available.

(b) The fair market value of property taken for which there is no relevant market is its value on the date of valuation as determined by any method of valuation that is just and equitable.

1263.330. The fair market value of the property taken shall not include any increase or decrease in the value of the property that is attributable to any of the following:

(a) The project for which the property is taken.

(b) The eminent domain proceeding in which the property is taken.

(c) Any preliminary actions of the plaintiff relating to the taking of the property.

Article 5. Compensation for Injury to Remainder

1263.410. (a) Where the property acquired is part of a larger parcel, in addition to the compensation awarded pursuant to Article 4 (commencing with Section 1263.310) for the part taken, compensation shall be awarded for the injury, if any, to the remainder.

(b) Compensation for injury to the remainder is the amount of the damage to the remainder reduced by the amount of the benefit to the remainder. If the amount of the benefit to the remainder equals or exceeds the amount of the damage to the remainder, no compensation shall be awarded under this article. If the amount of the benefit to the remainder exceeds the amount of damage to the remainder, such excess shall be deducted from the compensation provided in Section 1263.510, if any, but shall not be deducted from the compensation required to be awarded for the property taken or from the other compensation required by this chapter.

1263.420. Damage to the remainder is the damage, if any, caused to the remainder by either or both of the following:

(a) The severance of the remainder from the part taken.

(b) The construction and use of the project for which the property is taken in the manner proposed by the plaintiff whether or not the damage is caused by a portion of the project located on the part taken.

1263.430. Benefit to the remainder is the benefit, if any, caused by the construction and use of the project for which the property is taken in the manner proposed by the plaintiff whether or not the benefit is caused by a portion of the project located on the part taken.

1263.440. (a) The amount of any damage to the remainder and any benefit to the remainder shall reflect any delay in the time when the damage or benefit caused by the construction and use of the project in the manner proposed by the plaintiff will actually be realized.

(b) The value of the remainder on the date of valuation, excluding prior changes in value as prescribed in Section 1263.330, shall serve as the base from which the amount of any damage and the amount of any benefit to the remainder shall be determined.

1263.450. Compensation for injury to the remainder shall be based on the project as proposed. Any features of the project which mitigate the damage or provide benefit to the remainder, including but not limited to easements, crossings, underpasses, access roads, fencing, drainage facilities, and cattle guards, shall be taken into account in determining the compensation for injury to the remainder.

Article 6. Compensation for Loss of Goodwill

1263.510. (a) The owner of a business conducted on the property taken, or on the remainder if such property is part of a larger parcel, shall be compensated for loss of goodwill if the owner proves all of the following:

(1) The loss is caused by the taking of the property or the injury to the remainder.

(2) The loss cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill.

(3) Compensation for the loss will not be included in payments under Section 7262 of the Government Code.

(4) Compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner.

(b) Within the meaning of this article, "goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

1263.520. The owner of a business who claims compensation under this article shall make available to the court, and the court shall, upon such terms and conditions as will preserve their confidentiality, make available to the plaintiff, the state tax returns of the business for audit for confidential use solely for the purpose of determining the amount of compensation under this article. Nothing in this section affects any right a party may otherwise have to discovery or to require the production of documents, papers, books, and accounts.

1263.530 Nothing in this article is intended to deal with compensation for inverse condemnation claims for temporary interference with or interruption of business.

Article 7. Miscellaneous Provisions

1263.610. A public entity and the owner of property to be acquired for public use may make an agreement that the public entity will:

(a) Relocate for the owner any structure if such relocation is likely to reduce the amount of compensation otherwise payable to the owner by an amount equal to or greater than the cost of such relocation.

(b) Carry out for the owner any work on property not taken, including work on any structure, if the performance of the work is likely to reduce the amount of compensation otherwise payable to the owner by an amount equal to or greater than the cost of the work.

1263.620. (a) Where summons is served during construction of an improvement or installation of machinery or equipment on the

property taken or on the remainder if such property is part of a larger parcel, and the owner of the property ceases the construction or installation due to such service, the owner shall be compensated for his expenses reasonably incurred for work necessary for either of the following purposes:

(1) To protect against the risk of injury to persons or to other property created by the uncompleted improvement.

(2) To protect the partially installed machinery or equipment from damage, deterioration, or vandalism.

(b) The compensation provided in this section is recoverable only if the work was preceded by notice to the plaintiff except in the case of an emergency. The plaintiff may agree with the owner (1) that the plaintiff will perform work necessary for the purposes of this section or (2) as to the amount of compensation payable under this section.

CHAPTER 10. DIVIDED INTERESTS

Article 1. General Provisions

1265.010. Although this chapter provides rules governing compensation for particular interests in property, it does not otherwise limit or affect the right to compensation for any other interest in property.

Article 2. Leases

1265.110 Where all the property subject to a lease is acquired for public use, the lease terminates.

1265.120. Except as provided in Section 1265.130, where part of the property subject to a lease is acquired for public use, the lease terminates as to the part taken and remains in force as to the remainder, and the rent reserved in the lease that is allocable to the part taken is extinguished.

1265.130. Where part of the property subject to a lease is acquired for public use, the court may, upon petition of any party to the lease, terminate the lease if the court determines that an essential part of the property subject to the lease is taken or that the remainder of the property subject to the lease is no longer suitable for the purposes of the lease.

1265.140. The termination or partial termination of a lease pursuant to this article shall be at the earlier of the following times:

(a) The time title to the property is taken by the person who will put it to the public use.

(b) The time the plaintiff is authorized to take possession of the property as stated in an order for possession.

1265.150. Nothing in this article affects or impairs any right a lessee may have to compensation for the taking of his lease in whole or in part or for the taking of any other property in which he has an

interest.

1265.160. Nothing in this article affects or impairs the rights and obligations of the parties to a lease to the extent that the lease provides for such rights and obligations in the event of the acquisition of all or a portion of the property for public use.

Article 3. Encumbrances

1265.210. As used in this article, "lien" means a mortgage, deed of trust, or other security interest in property whether arising from contract, statute, common law, or equity.

1265.220. Where property acquired by eminent domain is encumbered by a lien and the indebtedness secured thereby is not due at the time of the entry of judgment, the amount of such indebtedness may be, at the option of the plaintiff, deducted from the judgment and the lien shall be continued until such indebtedness is paid; but the amount for which, as between the plaintiff and the defendant, the plaintiff is liable under Article 5 (commencing with Section 1268.410) of Chapter 11 may not be deducted from the judgment.

1265.225. (a) Where there is a partial taking of property encumbered by a lien, the lienholder may share in the award only to the extent determined by the court to be necessary to prevent an impairment of the security, and the lien shall continue upon the part of the property not taken as security for the unpaid portion of the indebtedness.

(b) Notwithstanding subdivision (a), the lienholder and the property owner may at any time after commencement of the proceeding agree that some or all of the award shall be apportioned to the lienholder on the indebtedness.

1265.230. (a) This section applies only where there is a partial taking of property encumbered by a lien and the part taken or some portion of it is also encumbered by a junior lien that extends to only a portion of the property encumbered by the senior lien. This section provides only for allocation of the portion of the award, if any, that will be available for payment to the junior and senior lienholders and does not provide for determination of the amount of such portion.

(b) As used in this section, "impairment of security" means the security of the lienholder remaining after the taking, if any, is of less value in proportion to the remaining indebtedness than the value of the security before the taking was in proportion to the indebtedness secured thereby.

(c) The portion of the award that will be available for payment to the senior and junior lienholders shall be allocated first to the senior lien up to the full amount of the indebtedness secured thereby and the remainder, if any, to the junior lien.

(d) If the allocation under subdivision (c) would result in an impairment of the junior lienholder's security, the allocation to the junior lien shall be adjusted so as to preserve the junior lienholder's

security to the extent that the remaining amount allocated to the senior lien, if paid to the senior lienholder, would not result in an impairment of the senior lienholder's security.

(e) The amounts allocated to the senior and junior liens by this section are the amounts of indebtedness owing to such senior and junior lienholders that are secured by their respective liens on the property taken, and any other indebtedness owing to the senior or junior lienholders shall not be considered as secured by the property taken. If the plaintiff makes the election provided in Section 1265.220, the indebtedness that is deducted from the judgment is the indebtedness so determined, and the lien shall continue until that amount of indebtedness is paid.

1265.240. Where the property acquired for public use is encumbered by a lien, the amount payable to the lienholder shall not include any penalty for prepayment.

Article 4. Future Interests

1265.410. (a) Where the acquisition of property for public use violates a use restriction coupled with a contingent future interest granting a right to possession of the property upon violation of the use restriction:

(1) If violation of the use restriction was otherwise reasonably imminent, the owner of the contingent future interest is entitled to compensation for its value, if any.

(2) If violation of the use restriction was not otherwise reasonably imminent but the benefit of the use restriction was appurtenant to other property, the owner of the contingent future interest is entitled to compensation to the extent that the failure to comply with the use restriction damages the dominant premises to which the restriction was appurtenant and of which he was the owner.

(b) Where the acquisition of property for public use violates a use restriction coupled with a contingent future interest granting a right to possession of the property upon violation of the use restriction but the contingent future interest is not compensable under subdivision (a), if the use restriction is that the property be devoted to a particular charitable or public use, the compensation for the property shall be devoted to the same or similar use coupled with the same contingent future interest.

1265.420. Where property acquired for public use is subject to a life tenancy, upon petition of the life tenant or any other person having an interest in the property, the court may order any of the following:

(a) An apportionment and distribution of the award based on the value of the interest of life tenant and remainderman.

(b) The compensation to be used to purchase comparable property to be held subject to the life tenancy.

(c) The compensation to be held in trust and invested and the income (and, to the extent the instrument that created the life

tenancy permits, principal) to be distributed to the life tenant for the remainder of the tenancy.

(d) Such other arrangement as will be equitable under the circumstances.

CHAPTER 11. POSTJUDGMENT PROCEDURE

Article 1. Payment of Judgment; Final Order of Condemnation

1268.010. (a) Not later than 30 days after final judgment, the plaintiff shall pay the full amount required by the judgment.

(b) Payment shall be made by either or both of the following methods:

(1) Payment of money directly to the defendant. Any amount which the defendant has previously withdrawn pursuant to Article 2 (commencing with Section 1255.210) of Chapter 6 shall be credited as a payment to him on the judgment.

(2) Deposit of money with the court pursuant to Section 1268 110. Upon entry of judgment, a deposit made pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6 is deemed to be a deposit made pursuant to Section 1268.110 if the full amount required by the judgment is deposited or paid.

1268.020. (a) If the plaintiff fails to pay the full amount required by the judgment within the time specified in Section 1268.010, the defendant may have execution as in a civil case.

(b) Upon noticed motion of the defendant, the court shall enter judgment dismissing the eminent domain proceeding if all of the following are established:

(1) The plaintiff failed to pay the full amount required by the judgment within the time specified in Section 1268.010.

(2) The defendant has filed in court and served upon the plaintiff, by registered or certified mail, a written notice of the plaintiff's failure to pay the full amount required by the judgment within the time specified in Section 1268.010.

(3) The plaintiff has failed for 20 days after service of the notice under paragraph (2) to pay the full amount required by the judgment in the manner provided in subdivision (b) of Section 1268.010.

(c) The defendant may elect to exercise the remedy provided by subdivision (b) without attempting to use the remedy provided by subdivision (a).

1268.030. (a) Upon application of any party, the court shall make a final order of condemnation if the full amount of the judgment has been paid as required by Section 1268 010 or satisfied pursuant to Section 1268.020.

(b) The final order of condemnation shall describe the property taken and identify the judgment authorizing the taking.

(c) The party upon whose application the order was made shall serve notice of the making of the order on all other parties affected

thereby. Any party affected by the order may thereafter record a certified copy of the order in the office of the recorder of the county in which the property is located and shall serve notice of recordation upon all other parties affected thereby. Title to the property vests in the plaintiff upon the date of recordation.

Article 2. Deposit and Withdrawal of Award

1268.110. (a) Except as provided in subdivision (b), the plaintiff may, at any time after entry of judgment, deposit with the court for the persons entitled thereto the full amount of the award, together with interest then due thereon, less any amounts previously paid directly to the defendants or deposited pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6.

(b) A deposit may be made under this section notwithstanding an appeal, a motion for a new trial, or a motion to vacate or set aside the judgment but may not be made after the judgment has been reversed, vacated, or set aside.

(c) Any amount deposited pursuant to this article on a judgment that is later reversed, vacated, or set aside shall be deemed to be an amount deposited pursuant to Article 1 (commencing with Section 1255 010) of Chapter 6.

1268.120. If the deposit is made under Section 1268.110 prior to apportionment of the award, the plaintiff shall serve a notice that the deposit has been made on all of the parties who have appeared in the proceeding. If the deposit is made after apportionment of the award, the plaintiff shall serve a notice that the deposit has been made on all of the parties to the proceeding determined by the order apportioning the award to have an interest in the money deposited. The notice of deposit shall state that a deposit has been made and the date and the amount of the deposit. Service of the notice shall be made in the manner provided in Section 1268.220 for the service of an order for possession. Service of an order for possession under Section 1268.220 is sufficient compliance with this section.

1268.130. At any time after the plaintiff has made a deposit upon the award pursuant to Section 1268.110, the court may, upon motion of any defendant, order the plaintiff to deposit such additional amount as the court determines to be necessary to secure payment of any further compensation, costs, or interest that may be recovered in the proceeding. After the making of such an order, the court may, on motion of any party, order an increase or a decrease in such additional amount A defendant may withdraw the amount deposited under this section or a portion thereof only if it is determined that he is entitled to recover such amount in the proceeding.

1268.140. (a) After entry of judgment, any defendant who has an interest in the property for which a deposit has been made may apply for and obtain a court order that he be paid from the deposit the amount to which he is entitled upon his filing either of the following:

(1) A satisfaction of the judgment.

(2) A receipt for the money which shall constitute a waiver by operation of law of all claims and defenses except a claim for greater compensation.

(b) If the award has not been apportioned at the time the application is made, the applicant shall give notice of the application to all the other defendants who have appeared in the proceeding and who have an interest in the property. If the award has been apportioned at the time the application is made, the applicant shall give such notice to the other defendants as the court may require.

(c) Upon objection to the withdrawal made by any party to the proceeding, the court, in its discretion, may require the applicant to file an undertaking in the same manner and upon the conditions prescribed in Section 1255.240 for withdrawal of a deposit prior to entry of judgment.

(d) If the judgment is reversed, vacated, or set aside, a defendant may withdraw a deposit only pursuant to Article 2 (commencing with Section 1255 210) of Chapter 6.

1268.150. (a) Except as provided in subdivision (b), when money is deposited as provided in this article, the court shall order the money to be deposited in the State Treasury or, upon written request of the plaintiff filed with the deposit, in the county treasury. If the money is deposited in the State Treasury pursuant to this subdivision, it shall be held, invested, deposited, and disbursed in the manner specified in Article 10 (commencing with Section 16429) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code, and interest earned or other increment derived from its investment shall be apportioned and disbursed in the manner specified in that article. As between the parties to the proceeding, money deposited pursuant to this subdivision shall remain at the risk of the plaintiff until paid or made payable to the defendant by order of the court.

(b) If after entry of judgment but prior to apportionment of the award the defendants are unable to agree as to the withdrawal of all or a portion of any amount deposited, the court shall upon motion of any defendant order that the amount deposited be invested in United States government obligations or interest-bearing accounts in an institution whose accounts are insured by an agency of the federal government for the benefit of the defendants who shall be entitled to the interest earned on the investments in proportion to the amount of the award they receive when the award is apportioned.

1268.160. (a) Any amount withdrawn by a party pursuant to this article in excess of the amount to which he is entitled as finally determined in the eminent domain proceeding shall be paid to the parties entitled thereto The court shall enter judgment accordingly.

(b) The judgment so entered shall not include interest except that any amount that is to be paid to a defendant shall include legal interest from the date of its withdrawal by another defendant.

(c) If the judgment so entered is not paid within 30 days after its entry, the court may, on motion, enter judgment against the sureties,

if any, for the amount of such judgment.

(d) The court may, in its discretion and with such security as it deems appropriate, grant a party obligated to pay under this section a stay of execution for any amount to be paid to a plaintiff. Such stay of execution shall not exceed one year following entry of judgment under this section.

1268.170. By making a deposit pursuant to this article, the plaintiff does not waive the right to appeal from the judgment, the right to move to abandon, or the right to request a new trial.

Article 3. Possession After Judgment

1268.210. (a) If the plaintiff is not in possession of the property to be taken, the plaintiff may, at any time after entry of judgment, apply ex parte to the court for an order for possession, and the court shall authorize the plaintiff to take possession of the property pending conclusion of the litigation if:

(1) The judgment determines that the plaintiff is entitled to take the property; and

(2) The plaintiff has paid to or deposited for the defendants, pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6 or Article 2 (commencing with Section 1268.110), an amount not less than the amount of the award, together with the interest then due thereon.

(b) The court's order shall state the date after which the plaintiff is authorized to take possession of the property. Where deposit is made, the order shall state such fact and the date and the amount of the deposit.

(c) Where the judgment is reversed, vacated, or set aside, the plaintiff may obtain possession of the property only pursuant to Article 3 (commencing with Section 1255.410) of Chapter 6.

1268.220. (a) The plaintiff shall serve a copy of the order for possession upon each defendant and his attorney, either personally or by mail:

(1) At least 30 days prior to the date possession is to be taken of property lawfully occupied by a person dwelling thereon or by a farm or business operation.

(2) At least 10 days prior to the date possession is to be taken in any case not covered by paragraph (1).

(b) A single service upon or mailing to one of several persons having a common business or residence address is sufficient.

1268.230. By taking possession pursuant to this article, the plaintiff does not waive the right to appeal from the judgment, the right to move to abandon, or the right to request a new trial.

1268.240. Nothing in this article limits the right of a public entity to exercise its police power in emergency situations

Article 4. Interest

1268.310. The compensation awarded in the proceeding shall draw legal interest from the earliest of the following dates:

(a) The date of entry of judgment.

(b) The date the plaintiff takes possession of the property.

(c) The date after which the plaintiff is authorized to take possession of the property as stated in an order for possession.

1268.320. The compensation awarded in the proceeding shall cease to draw interest at the earliest of the following dates:

(a) As to any amount deposited pursuant to Article 1 (commencing with Section 1255.010) of Chapter 6 (deposit of probable compensation prior to judgment), the date such amount is withdrawn by the person entitled thereto.

(b) As to the amount deposited in accordance with Article 2 (commencing with Section 1268.110) (deposit of amount of award), the date of such deposit.

(c) As to any amount paid to the person entitled thereto, the date of such payment.

1268.330. If, after the date that interest begins to accrue, the defendant:

(a) Continues in actual possession of the property, the value of such possession shall be offset against the interest. For the purpose of this section, the value of possession of the property shall be presumed to be the legal rate of interest on the compensation awarded. This presumption is one affecting the burden of proof.

(b) Receives rents or other income from the property attributable to the period after interest begins to accrue, the net amount of such rents and other income shall be offset against the interest.

1268.340. Interest, including interest accrued due to possession of property by the plaintiff prior to judgment, and any offset against interest as provided in Section 1268.330, shall be assessed by the court rather than by jury.

Article 5. Proration of Property Taxes

1268.410. As between the plaintiff and defendant, the plaintiff is liable for any ad valorem taxes, penalties, and costs upon property acquired by eminent domain that would be subject to cancellation under Chapter 4 (commencing with Section 4986) of Part 9 of Division 1 of the Revenue and Taxation Code if the plaintiff were a public entity and if such taxes, penalties, and costs had not been paid, whether or not the plaintiff is a public entity.

1268.420. If property acquired by eminent domain does not have a separate valuation on the assessment roll, any party to the eminent domain proceeding may, at any time after the taxes on such property are subject to cancellation pursuant to Section 4986 of the Revenue and Taxation Code, apply to the tax collector for a separate valuation of such property in accordance with Article 3 (commencing with

Section 2821) of Chapter 3 of Part 5 of Division 1 of the Revenue and Taxation Code notwithstanding any provision in such article to the contrary.

1268.430. (a) If the defendant has paid any amount for which, as between the plaintiff and defendant, the plaintiff is liable under this article, the plaintiff shall pay to the defendant a sum equal to such amount.

(b) The amount the defendant is entitled to be paid under this section shall be claimed in the manner provided for claiming costs and at the following times:

(1) If the plaintiff took possession of the property prior to judgment, at the time provided for claiming costs.

(2) If the plaintiff did not take possession of the property prior to judgment, not later than 30 days after the plaintiff took title to the property.

Article 6. Abandonment

1268.510. (a) At any time after the filing of the complaint and before the expiration of 30 days after final judgment, the plaintiff may wholly or partially abandon the proceeding by serving on the defendant and filing in court a written notice of such abandonment

(b) The court may, upon motion made within 30 days after the filing of such notice, set the abandonment aside if it determines that the position of the moving party has been substantially changed to his detriment in justifiable reliance upon the proceeding and such party cannot be restored to substantially the same position as if the proceeding had not been commenced.

(c) Upon denial of a motion to set aside such abandonment or, if no such motion is filed, upon the expiration of the time for filing such a motion, the court shall, on motion of any party, enter judgment wholly or partially dismissing the proceeding.

Article 7. Litigation Expenses and Damages Upon Dismissal or Defeat of Right to Take

1268.610. (a) Subject to subdivision (b), the court shall award the defendant his litigation expenses whenever:

(1) The proceeding is wholly or partly dismissed for any reason; or

(2) Final judgment in the proceeding is that the plaintiff cannot acquire property it sought to acquire in the proceeding.

(b) Where there is a partial dismissal or a final judgment that the plaintiff cannot acquire a portion of the property originally sought to be acquired, or a dismissal of one or more plaintiffs pursuant to Section 1260.020, the court shall award the defendant only those litigation expenses, or portion thereof, that would not have been incurred had the property sought to be acquired following the dismissal or judgment been the property originally sought to be

acquired.

(c) Litigation expenses under this section shall be claimed in and by a cost bill to be prepared, served, filed, and taxed as in a civil action. If the proceeding is dismissed upon motion of the plaintiff, the cost bill shall be filed within 30 days after notice of entry of judgment.

1268.620. If, after the defendant moves from property in compliance with an order or agreement for possession or in reasonable contemplation of its taking by the plaintiff, the proceeding is dismissed with regard to that property for any reason or there is a final judgment that the plaintiff cannot acquire that property, the court shall:

(a) Order the plaintiff to deliver possession of the property to the persons entitled to it; and

(b) Make such provision as shall be just for the payment of all damages proximately caused by the proceeding and its dismissal as to that property.

Article 8. Costs

1268.710. The defendants shall be allowed their costs, including the costs of determining the apportionment of the award made pursuant to subdivision (b) of Section 1260.220, except that the costs of determining any issue as to title between two or more defendants shall be borne by the defendants in such proportion as the court may direct.

1268.720. Unless the court otherwise orders, whether or not he is the prevailing party, the defendant in the proceeding shall be allowed his costs on appeal. This section does not apply to an appeal involving issues between defendants.

CHAPTER 12. ARBITRATION OF COMPENSATION IN ACQUISITIONS OF PROPERTY FOR PUBLIC USE

1273.010. (a) Any person authorized to acquire property for public use may enter into an agreement to arbitrate any controversy as to the compensation to be made in connection with the acquisition of the property.

(b) Where property is already appropriated to a public use, the person authorized to compromise or settle the claim arising from a taking or damaging of such property for another public use may enter into an agreement to arbitrate any controversy as to the compensation to be made in connection with such taking or damaging.

(c) For the purposes of this section, in the case of a public entity, "person" refers to the particular department, officer, commission, board, or governing body authorized to acquire property on behalf of the public entity or to compromise or settle a claim arising from the taking or damaging of the entity's property.

1273.020. (a) Notwithstanding Sections 1283.2 and 1284.2, the

party acquiring the property shall pay all of the expenses and fees of the neutral arbitrator and the statutory fees and mileage of all witnesses subpoenaed in the arbitration, together with other expenses of the arbitration incurred or approved by the neutral arbitrator, not including attorney's fees or expert witness fees or other expenses incurred by other parties for their own benefit.

(b) An agreement authorized by this chapter may require that the party acquiring the property pay reasonable attorney's fees or expert witness fees, or both, to any other party to the arbitration. If the agreement requires the payment of such fees, the amount of the fees is a matter to be determined in the arbitration proceeding unless the agreement prescribes otherwise.

(c) The party acquiring the property may pay the expenses and fees referred to in subdivisions (a) and (b) from funds available for the acquisition of the property or other funds available for the purpose.

1273.030. (a) Except as specifically provided in this chapter, agreements authorized by this chapter are subject to Title 9 (commencing with Section 1280) of this part.

(b) An agreement authorized by this chapter may be made whether or not an eminent domain proceeding has been commenced to acquire the property If a proceeding has been commenced or is commenced, any petition or response relating to the arbitration shall be filed and determined in the proceeding.

(c) Notwithstanding Section 1281.4, an agreement authorized by this chapter does not waive or restrict the power of any person to commence and prosecute an eminent domain proceeding, including the taking of possession prior to judgment, except that, upon motion of a party to the proceeding, the court shall stay the determination of compensation until any petition for an order to arbitrate is determined and, if arbitration is ordered, until arbitration is had in accordance with the order.

(d) The effect and enforceability of an agreement authorized by this chapter is not defeated or impaired by contention or proof by any party to the agreement that the party acquiring the property pursuant to the agreement lacks the power or capacity to take the property by eminent domain.

(e) Notwithstanding the rules as to venue provided by Sections 1292 and 1292.2, any petition relating to arbitration authorized by this chapter shall be filed in the superior court in the county in which the property, or any portion of the property, is located.

1273 040. (a) Except as provided in subdivision (b), an agreement authorized by this chapter may specify the terms and conditions under which the party acquiring the property may abandon the acquisition, the arbitration proceeding, and any eminent domain proceeding that may have been, or may be, filed. Unless the agreement provides that the acquisition may not be abandoned, the party acquiring the property may abandon the acquisition, the arbitration proceeding, and any eminent domain

proceeding at any time not later than the time for filing and serving a petition or response to vacate an arbitration award under Sections 1288, 1288.2, and 1290.6.

(b) If the proceeding to acquire the property is abandoned after the arbitration agreement is executed, the party from whom the property was to be acquired is entitled to recover (1) all expenses reasonably and necessarily incurred (i) in preparing for the arbitration proceeding and for any judicial proceedings in connection with the acquisition of the property, (ii) during the arbitration proceeding and during any judicial proceedings in connection with the acquisition, and (iii) in any subsequent judicial proceedings in connection with the acquisition and (2) reasonable attorney's fees, appraisal fees, and fees for the services of other experts where such fees were reasonably and necessarily incurred to protect his interests in connection with the acquisition of the property. Unless the agreement otherwise provides, the amount of such expenses and fees shall be determined by arbitration in accordance with the agreement.

1273.050. (a) An agreement authorized by this chapter may be acknowledged and recorded, and rerecorded, in the same manner and with the same effect as a conveyance of real property except that two years after the date the agreement is recorded, or rerecorded, the record ceases to be notice to any person for any purpose.

(b) In lieu of recording the agreement, there may be recorded a memorandum thereof, executed by the parties to the agreement, containing at least the following information: the names of the parties to the agreement, a description of the property, and a statement that an arbitration agreement affecting such property has been entered into pursuant to this chapter. Such memorandum when acknowledged and recorded, or rerecorded, in the same manner as a conveyance of real property has the same effect as if the agreement itself were recorded or rerecorded.

SEC. 3. Section 1240.680 is added to the Code of Civil Procedure, to read:

1240.680. (a) Subject to Sections 1240.690 and 1240.700, notwithstanding any other provision of law, property is presumed to have been appropriated for the best and most necessary public use if the property is appropriated to public use as any of the following:

(1) A state, regional, county, or city park, open space, or recreation area.

(2) A wildlife or waterfowl management area established by the Department of Fish and Game pursuant to Section 1525 of the Fish and Game Code.

(3) A historic site included in the National Register of Historic Places or state-registered landmarks.

(4) An ecological reserve as provided for in Article 4 (commencing wth Section 1580) of Chapter 5 of Division 2 of the Fish and Game Code.

(b) The presumption established by this section is a presumption

affecting the burden of proof.

SEC. 4. Section 1240.700 is added to the Code of Civil Procedure, to read:

1240.700. (a) When property described in Section 1240.680 is sought to be acquired for city or county road, street, or highway purposes, and such property was dedicated or devoted to regional park, recreational, or open-space purposes prior to the initiation of road, street, or highway route location studies, an action for declaratory relief may be brought in the superior court by the regional park district which operates the park, recreational, or open-space area to determine the question of which public use is the best and most necessary public use for such property.

(b) The action for declaratory relief shall be filed and served within 120 days after the city or county, as the case may be, has published in a newspaper of general circulation pursuant to Section 6061 of the Government Code, and delivered to the regional park district, a written notice that a proposed route or site or an adopted route includes such property.

(c) With respect to property dedicated or devoted to regional park, recreational, or open-space purposes which is sought to be acquired for city or county road, street, or highway purposes:

(1) If an action for declaratory relief is not filed and served within the 120-day period established by subdivision (b), the right to bring such action is waived and the provisions of Section 1240.680 do not apply.

(2) When a declaratory relief action may not be brought pursuant to this section, the provisions of Section 1240.680 do not apply.

SEC. 5. Sections 3 and 4 of this act shall become operative only if Assembly Bill No. 1164 of 1975–76 Regular Session is chaptered and becomes effective January 1, 1976, and in such case Sections 1240.680 and 1240.700, respectively, as added to the Code of Civil Procedure by Section 2 of this act, shall not become operative.

CHAPTER 1276

An act to amend Section 2 of, and to repeal Section 23 of, the American River Flood Control District Act (Chapter 808 of the Statutes of 1927), to amend Section 7.5 of Chapter 641 of the Statutes of 1931, to amend Section 3 of the Lassen-Modoc County Flood Control and Water Conservation District Act (Chapter 2127 of the Statutes of 1959), to amend Sections 2 and 16 of, and to repeal Sections 16½, 16⅝, and 16¾ of, the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), to amend Sections 260 and 650 of the Madera County Flood Control and Water Conservation Agency Act (Chapter 916 of the Statutes of 1969), to amend Section 3 of the Mendocino County Flood Control and Water Conservation District Act (Chapter 995 of the Statutes of 1949), to

amend Sections 2 and 16 of, and to repeal Section 16.1 of, the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), to amend Section 3 of the Plumas County Flood Control and Water Conservation District Act (Chapter 2114 of the Statutes of 1959), to amend Section 9 of, and to repeal Section 9.2 of, the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945), to amend Section 2 of the San Bernardino County Flood Control Act (Chapter 73 of the Statutes of 1939), to amend Sections 23 and 41 of, and to repeal Section 24 of, the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955), to amend Section 3 of the Sierra County Flood Control and Water Conservation District Act (Chapter 2123 of the Statutes of 1959), to amend Section 3 of the Siskiyou County Flood Control and Water Conservation District Act (Chapter 2121 of the Statutes of 1959), to amend Section 3.4 of the Solano County Flood Control and Water Conservation District Act (Chapter 1656 of the Statutes of 1951), to amend Section 3 of the Sonoma County Flood Control and Water Conservation District Act (Chapter 994 of the Statutes of 1949), to amend Section 3 of the Tehama County Flood Control and Water Conservation District Act (Chapter 1280 of the Statutes of 1957), to amend Section 7 of the Ventura County Flood Control Act (Chapter 44 of the Statutes of 1944, Second Extraordinary Session), and to amend Section 3 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), relating to flood control and water conservation.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. Section 2 of the American River Flood Control District Act (Chapter 808 of the Statutes of 1927) is amended to read:

Sec. 2. The objects and purposes of this act are to provide, to the extent that the board of trustees of said district may deem expedient and/or economical, for the control and disposition of the storm and flood waters of said district and to that end the American river flood control district is hereby declared to be a body corporate and politic and as such shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise or lease; to hold, use, enjoy, sell, and/or contract to sell, lease, and/or dispose of real, personal, and/or mixed property of every kind within or without the district necessary, expedient or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire or contract to acquire lands, rights-of-way, easements, privileges or property of every kind within or without the district, and construct, maintain and operate any and all works and improvements within or without the district necessary, convenient or proper to carry out any of the provisions, objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized.

(f) To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

(g) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, tunnels, drains, poles, posts, wires, lamps, power plants, railroads, dredgers and all other auxiliary, incidental, necessary or convenient agencies, work or improvements that may be required to carry out, facilitate, repair, maintain and/or complete the same.

(h) To incur indebtedness, and to issue bonds in the manner herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest such warrants shall bear after registration and until such payment.

(i) To cause assessments to be levied and collected for the purpose of paying any obligations of the district in the manner hereinafter provided.

(j) To appoint and employ such engineers, attorneys, assistants and other employees as may be necessary and fix their compensation, including, if it deem advisable, a clerk, superintendent of work, assessor, treasurer and collector and define their powers and duties, and fix and determine the amount of bond required of each appointee and pay the premium on each such bond; which said officers and employees and each of them shall serve at the pleasure of the board of trustees of said district. Said board shall have the power to combine any two or more offices in its discretion.

(k) To establish and fix the boundaries of zones in said district as in this act hereinafter provided; to make transfers of money from the general fund of said district to any special fund and to create and administer such special funds as in their discretion may seem advisable; to create and administer revolving funds to facilitate and assist in the carrying on and completing of such acquisitions, works, and improvements provided for herein, and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(*l*) To make and enter into contracts with the United States of America, the State of California, any political subdivision, county, municipality, district, agency or mandatory of the State of California or of the United States and any department, board, bureau or commission of the State of California or of the United States of

America, and/or any person, firm, association or corporation, jointly and/or severally, for the acquisition of property or rights and/or the construction, maintenance and/or operation in whole or in part of any and/or all works and/or improvements provided in this act.

(m) To lease and/or rent to or from any of the parties named in subdivision (*l*) of this section any property or rights necessary, in the opinion of the board of trustees of said district, to accomplish or carry out any of the work or improvement or the maintenance thereof herein provided and under such terms and conditions as may be agreed upon between the parties.

(n) To receive and accept any and all contributions in labor, materials or money from any of the parties named in subdivision (*l*) of this section, to be applied to the work or improvement herein provided for.

SEC. 2. Section 23 of the American River Flood Control District Act (Chapter 808 of the Statutes of 1927) is repealed.

SEC. 3. Section 7.5 of Chapter 641 of the Statutes of 1931 is amended to read:

Sec. 7.5. The flood control and conservation district shall have the power to condemn property for the purpose of constructing and protecting dams, protection barriers and other improvements and works necessary to carry out the project of flood control and flood water conservation.

SEC. 4. Section 3 of the Lassen-Modoc County Flood Control and Water Conservation District Act (Chapter 2127 of the Statutes of 1959) is amended to read:

Sec. 3. The objects and purposes of this act are to provide, to the extent that the board may deem expedient or economical, for the control and disposition of the storm, flood, and other waters of said district and to that end the district is hereby created to be a body corporate and politic and as such shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise or lease; to hold, use, enjoy, sell, and contract to sell, lease, or dispose of real, personal and mixed property of every kind within or without the district necessary, expedient or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire and contract to acquire by purchase, donation or other lawful means in the name of the district from private persons, public and private corporations, associations, agencies or districts, lands, rights-of-way, easements, privileges, material, and property of every kind within or without the district, to do all work and to acquire, construct, maintain and operate any and all works and improvements within or without the district, and to make, execute, carry out and enforce all contracts of every character, necessary, convenient, incidental, useful or proper to carry out any of the

provisions, objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized.

(f) To exercise the right of eminent domain to take any property located within the district necessary to carry out any of the objects or purposes of this act.

(g) To compel by injunction or other lawful means the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed, or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose or purposes. All costs of relocating or altering or otherwise changing existing works or structures shall be paid by the district; provided, however, that all costs of relocating or otherwise changing any portion of a state highway shall be paid for from funds available for rights-of-way for flood control purposes and not from funds appropriated for state highway purposes.

(h) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, drains, tunnels, poles, posts, wires, lamps, power plants, railroads, dredgers and all other auxiliary, incidental, necessary or convenient agencies, work or improvements that may be required to carry out, facilitate, repair, maintain and complete the same.

(i) To incur indebtedness, and to issue bonds in the manner herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest such warrants shall bear after registration and until such payment.

(j) To cause assessments to be levied and collected for the purpose of paying any obligations of the district in the manner hereinafter provided.

(k) To appoint and employ such engineers, attorneys, assistants and other employees as may be necessary and fix their compensation, including, if it deem advisable, a clerk, superintendent of work, assessor, treasurer and tax collector, and define their powers and duties, and fix and determine the amount of bond required of each employee and pay the premium on each such bond; which said officers and employees and each of them shall serve at the pleasure of the board.

The board shall have the power to combine any two or more offices in its discretion.

(*l*) To establish and fix the boundaries of zones in the district as provided in this act; to make transfers of money from the general fund of the district to any special fund and to create and administer such special funds as in their discretion may seem advisable, and to

abolish the same; to create and administer revolving funds to facilitate and assist in the carrying on and completing of such acquisitions, works, and improvements provided for herein, and to abolish same; and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(m) To make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality, district, agency or mandatory of the State of California or of the United States and any department, board, bureau or commission of the State of California or the United States, or any person, firm, association or corporation, jointly or severally, for the acquisition of property rights or the construction, maintenance and operation in whole or in part of any or all works and improvements provided in this act.

(n) To lease or rent to or from any of the parties named in subdivision (m) of this section any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement or the maintenance thereof and under such terms and conditions as may be agreed upon between the parties.

(o) To receive and accept any and all contributions in labor, material or money from any of the parties named in subdivision (m) of this section, to be applied to the work or improvement herein provided for.

(p) To construct, purchase, lease or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface water and water rights, useful or necessary to make use of water for any of the purposes authorized by this act.

(q) To do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of lands or inhabitants within the district, including but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, recreational and all other beneficial uses.

(r) To control flood and storm waters within the district and the flood and storm waters or streams outside the district, which flow into the district; to conserve such waters by storage in surface reservoirs, to divert and transport such waters for beneficial uses within the district; to release such waters from surface reservoirs to replenish and augment the supply of water in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district; to commence, maintain, intervene in, defend or compromise, in the name of the district, on behalf of the landowners therein, or otherwise to assume the cost and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or of the common benefit of any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in,

defend and compromise and to assume the cost and expenses of any and all actions or proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare the rights in natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use, the surface or subsurface water used or useful in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of actions or controversies between the owners of lands or water rights which do not affect the interests of the district.

(s) To cooperate and act in conjunction with the United States or with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, or with the Counties of Lassen and Modoc, in the construction of any work for the controlling of flood or storm waters of or flowing into said district, or for the protection of life or property therein, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

(t) To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, devise or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and to hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition,

use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by said Lassen-Modoc County Flood Control and Water Conservation District; to acquire by negotiation only the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water owned or controlled by the district or right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch, or conduit owned and controlled by the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual or any water right or water pumped, stored, appropriated or otherwise acquired or secured, for the use of the Lassen-Modoc County Flood Control and Water Conservation District, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement.

(u) To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply for any purpose, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of any contract so made; and for said purposes the district shall have in addition to the powers specifically set forth in this act, all powers, rights and privileges possessed by irrigation districts as set out in Chapter 2 (commencing with Section 23175) of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.

(v) To construct, operate, and maintain works to develop hydroelectric energy as a means of assisting in financing the construction, operation and maintenance of works for other beneficial uses and purposes, and to enter into contracts for the sale of such energy for a term not to exceed 50 years. Such energy may be marketed only at wholesale rates to any public agency or private entity engaged in the sale or use of electric energy.

(w) Nothing herein contained shall be deemed to permit the district or its board of directors to acquire or interfere in existing water rights and water uses and facilities for distribution of the same on an involuntary basis, but nothing herein shall be deemed to prohibit negotiating and acquisition of existing rights, uses, and privileges in water by negotiation.

SEC. 5. Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) is amended to read:

Sec. 2. The objects and purposes of this act are to provide for the control and conservation of the flood, storm and other waste waters of said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within said district, or to save or conserve in any manner, all or any of such waters, and to protect from damage from such flood or storm waters, the harbors, waterways, public highways and property in said district.

Said Los Angeles County Flood Control District is hereby declared to be a body corporate and politic, and as such shall have power:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real or personal property of every kind within or without the district necessary to the full exercise of its power.

5. To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as herein authorized. Construction or improvement of existing facilities may involve landscaping and other aesthetic treatment in order that the facility will be compatible with existing or planned development in the area of improvement.

6. To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

7. To incur indebtedness, and to issue bonds in the manner herein provided.

7a. In addition to the powers given in the next preceding subsection, to borrow money from the United States of America, any agency or department thereof, or from any nonprofit corporation, organized under the laws of this state, to which the Reconstruction Finance Corporation, a corporation organized and existing under and by virtue of an act of Congress, entitled "Reconstruction Finance Corporation Act," or other agency, or department, of the United States government, has authorized, or shall hereafter authorize, a loan to enable such nonprofit corporation to lend money to said Los Angeles County Flood Control District, for any flood control work authorized under this act, and to repay the same, in annual installments, over a period of not to exceed twenty (20) years, with interest at a rate of not to exceed four and one-fourth per centum (4¼%) per annum, payable semiannually, and, without the necessity

of an election when authorized by resolution of the board of supervisors, as evidences of such indebtedness, said district is hereby authorized to execute and deliver a note, or a series of notes, or bonds, or other evidences of indebtedness, signed by the chairman of the board of supervisors of said district, which notes, bonds, or other evidences of indebtedness, shall be negotiable instruments if so declared in said resolution of the board of supervisors providing for their issuance, and said notes, bonds, or other evidences of indebtedness, may have interest coupons attached to evidence interest payments, signed by the facsimile signature of said chairman of said board. All applications for such loans shall specify the particular flood control work or projects for which the funds will be expended, and when received, the money shall be deposited in a special fund, and shall be expended for those purposes only which are described and referred to in the applications. If a surplus remains after the completion of said work, such surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness, executed as aforesaid, for the loan including interest coupons. The board of supervisors shall annually, levy a tax upon the taxable real property of said district, clearly sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure the prompt payment thereof, as may be provided by said resolution of the board of supervisors; provided, however, that the amount of taxes levied in any year, pursuant to the provisions of this subsection, shall, pro tanto, reduce the authority of the board of supervisors, during any such year, to levy taxes under Section 14 of this act, but this proviso shall not be a limitation upon the power and duty to levy and collect taxes under this subsection.

Notwithstanding anything in this subsection 7a to the contrary, the total amount which said district may borrow under the authority of any or all of the provisions of this subsection is limited to and shall not exceed in the aggregate the sum of four million five hundred thousand dollars ($4,500,000).

7b. The power granted in the next preceding subsection is hereby extended to authorize the issuance and sale of bonds or other evidences of indebtedness of said district to the County of Los Angeles and the purchase thereof by said county in accordance with "An act authorizing the investment and reinvestment and disposition of any surplus moneys in the treasury of any county, city and county, incorporated city or town or municipal utility district or flood control district," approved April 23, 1913, as amended; all subject to the provisions and limitations of the next preceding subsection relative to the disposition and use of funds, interest rate, period of repayment, tax rate and mode of issuance. The total amount of bonds or other evidence of indebtedness, in the aggregate, which the district may issue and sell under the authority of subsection 7a and of this subsection is limited to and shall not exceed

four million five hundred thousand dollars ($4,500,000).

8. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner hereinafter provided.

9. To make contracts, and to employ for temporary services only, expert appraisers, consultants and technical advisers, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

10. To grant or otherwise convey to counties, cities and counties, cities or towns easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by said Los Angeles County Flood Control District.

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dislodged, transported, conveyed or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of said district or elsewhere.

12. To pay premiums on bonds of contractors required under any contract wherein the amount payable to the contractor exceeds five million dollars ($5,000,000); provided, that the specifications in such cases shall specifically so provide and state that the bidder shall not include in his bids the cost of furnishing the required bonds

13. To lease, sell or dispose of any property (or any interest therein) whenever in the judgment of said board of supervisors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased for any purpose without interfering with the use of the same for the purposes of said district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act; provided, however, that nothing herein shall authorize the board of supervisors or other governing body of the district or any officer thereof to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity or any interest or space therein except to public agencies for recreational purposes when such use is not inconsistent with the use thereof by the district for flood control and water conservation purposes; or except as hereinafter provided by Section 17 of this act; provided, however, that said district may grant and convey to the United States of America, or to any federal agency authorized to accept and pay for such land or interests in land, all lands and interests in land, now owned or hereafter acquired, lying within any channel, dam or reservoir site, improved or constructed, in whole or in part, with federal funds, upon payment to the district of sums equivalent to actual expenditures made by it in acquiring the lands and interests in land so conveyed and deemed reasonable by the Secretary of War and the Chief of Engineers.

14. To provide, by agreement with other public agencies or private persons or entities or otherwise, for the recreational use of the lands, facilities, and works of such district which shall not

interfere, or be inconsistent, with the primary use and purpose of such lands, facilities, and works by such district.

15. In addition to its other powers, the district shall have the power to preserve and enhance its properties and, upon a finding by the board of supervisors that the acquisition is necessary for such purposes, to acquire, preserve, and enhance lands or interests in lands contiguous to its properties, for the protection and preservation of the scenic beauty and natural environment for such properties or such lands.

The said district by or through its board of supervisors, or other board or officers at any time succeeding to the duties or functions of its board of supervisors, is hereby authorized and empowered to warrant and defend the title to all land and interests therein so conveyed to the United States of America or to any such agency and their respective assigns; to covenant and agree to indemnify and keep indemnified and to hold and save harmless and exonerated the United States of America or any such agency, to which such lands or any interest therein are so conveyed by said district, from and against all demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any defect or defects whatsoever in the title to any such land or interest in land so conveyed by said district; to reimburse and save harmless and exonerated the United States of America or any such agency for any and all amounts, paid, and expenses incurred, in the compromise or settlement of any demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any claim to or defect or defects whatsoever in the title to any such land or interests in land so conveyed by said district; to pay all just compensation, costs and expenses, which may be incurred in any condemnation proceeding deemed necessary by the United States of America or such agency, in order to perfect title to any such land or interests in land, including without limitation all attorneys' fees, court costs and fees, costs of abstracts and other evidences of title, and all other costs, expenses or damages incurred or suffered by the United States of America or such agency; and consent is hereby given to the bringing of suit or other legal proceedings against said district by the United States of America or such agency, as the case may be, in the proper district court of the United States, upon any cause of action arising out of any conveyance, contract or covenant made or entered into by said district pursuant to the authority granted in this act, or to enforce any claims, damages, loss or expenses arising out of or resulting from any defect whatsoever in the title to such land or any interest therein or any claims of others in or to such land or interest therein.

SEC. 6. Section 16 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) is amended to read:

Sec. 16. The said board of supervisors of said district shall have

power to make and enforce all needful rules and regulations for the administration and government of said district, and to perform all other acts necessary or proper to accomplish the purposes of this act.

Said board of supervisors shall have power to do all work and to construct and acquire all improvements necessary or useful for carrying out any of the purposes of this act; and said board of supervisors shall have power to acquire either within or without the boundaries of said district, by purchase, donation or by other lawful means in the name of said district, from private persons, corporations, reclamation districts, swampland districts, levee districts, protection districts, drainage districts, irrigation districts, or other public corporations or agencies or districts, all lands, rights-of-way, easements, property or materials necessary or useful for carrying out any of the purposes of this act; to make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of the powers conferred by this act, or arising out of the use, taking or damage of any property, rights-of-way or easements, for any of such purposes; to compensate any reclamation district, protection district, drainage district, irrigation district or other district, public corporation or agency or district, for any right-of-way, easement or property taken over or acquired by said Los Angeles County Flood Control District as a part of its work of flood control or conservation or protection provided for in this act, and any such reclamation district, protection district, drainage district, irrigation district or other district or public corporation or agency is hereby given power and authority to distribute such compensation in any manner that may be now or hereafter allowed by law; to maintain actions to restrain the doing of any act or thing that may be injurious to carrying out any of the purposes of this act by said district, or that may interfere with the successful execution of said work, or for damages for injury thereto; to do any and all things necessary or incident to the powers hereby granted, or to carry out any of the objects and purposes of this act; to require, by appropriate legal proceedings, the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal, so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along any such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to require the removal or alteration thereof for such purpose; provided, however, that nothing in this act contained shall be deemed to authorize said district in exercising any of its powers to take, damage or destroy any property or to require the removal, relocation, alteration or destruction of any bridge, railroad, wire line, pipeline, facility or other structure unless just compensation therefor be first made, in the manner and to the extent required by the Constitution of the United States and the Constitution of California.

The board of supervisors of said district is hereby vested with full power to do all other acts or things necessary or useful for the promotion of the work of the control of the flood and storm waters of said district, and to conserve such waters for beneficial and useful purposes, and to protect from damage from such storm or flood waters the harbors, waterways, public highways and property in said district; provided, however, that nothing in this act contained shall be deemed to authorize said district, or any person or persons, to divert the waters of any river, creek, stream, irrigation system, canal or ditch, from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless previous compensation be first ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses; and provided further, that nothing in this act contained shall be construed as in any way affecting the plenary power of any incorporated city, city and county, or town, or municipal or county water district, to provide for a water supply of such public corporation, or as affecting the absolute control of any properties of such public corporations necessary for such water supply, and nothing herein contained shall be construed as vesting any power of control over such properties in said Los Angeles County Flood Control District, or in any officer thereof, or in any person referred to in this act; and provided further, that nothing in this act contained shall be deemed to authorize said board of supervisors to raise money for said district by any method or system other than that by the issuing of bonds, or the levying of a tax upon the assessed value of all the real property in said district in the manner in this act provided, except from the sale and lease of its property as herein provided.

SEC. 7. Section 16½ of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) is repealed.

SEC 8. Section 16⅝ of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) is repealed.

SEC. 9. Section 16¾ of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) is repealed.

SEC. 10. Section 260 of the Madera County Flood Control and Water Conservation Agency Act (Chapter 916 of the Statutes of 1969) is amended to read:

Sec. 260. If the owner (public or private) of any land, easement, or franchise to be crossed or occupied by works of the agency cannot agree with the agency as to payment, location of the crossing, or manner of occupation, or any other matters in connection therewith, they shall be determined as in a proceeding in eminent domain.

If a right to flood or otherwise interfere with any road, railroad, canal, or other property is acquired by eminent domain, the judgment may, if the court finds that the public convenience requires it, direct the agency to relocate the road, railroad, canal, or other property in accordance with plans prescribed by the court.

SEC. 11. Section 650 of the Madera County Flood Control and

Water Conservation Agency Act (Chapter 916 of the Statutes of 1969) is amended to read:

Sec. 650. The agency may exercise the right of eminent domain, either within or without said agency, to take any property necessary to carry out any of the objects or purposes of this act. The agency in exercising such power shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal or relocation of any structure, railways, mains, pipes, conduits, wires, cable, poles, of any public utility which is required to be moved to a new location. Nothing in this act contained shall be deemed to authorize said agency, or any person or persons, to divert the waters of any river, creek, stream, irrigation system, canal or ditch, from its channel, to the detriment of any person, or persons having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless compensation therefor be paid as authorized by law.

SEC. 12. Section 3 of the Mendocino County Flood Control and Water Conservation District Act (Chapter 995 of the Statutes of 1949) is amended to read:

Sec. 3. The objects and purposes of this act are to provide, to the extent that the board may deem expedient or economical, for the control and disposition of the storm and flood waters of said district and to that end the district is hereby created to be a body corporate and politic and as such shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise or lease; to hold, use, enjoy, sell, and contract to sell, lease, or dispose of real, personal and mixed property of every kind within or without the district necessary, expedient or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire and contract to acquire by purchase, donation or other lawful means in the name of the district from private persons, public and private corporations, associations, agencies or districts, lands, rights-of-way, easements, privileges, material, and property of every kind within or without the district, to do all work and to acquire, construct, maintain and operate any and all works and improvements within or without the district, and to make, execute, carry out and enforce all contracts of every character, necessary, convenient, incidental, useful or proper to carry out any of the provisions, objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized.

(f) To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

(g) To compel by injunction or other lawful means the owner or

owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed, or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along any such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose or purposes. All costs of relocating or otherwise changing any portion of a state highway shall be paid from funds available for rights-of-way for flood control purposes and not from funds appropriated for state highway purposes.

(h) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, tunnels, drains, poles, posts, wires, lamps, powerplants, railroads, dredgers and all other auxiliary, incidental, necessary or convenient agencies, work or improvements that may be required to carry out, facilitate, repair, maintain and complete the same.

(i) To incur indebtedness, and to issue bonds in the manner herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest such warrants shall bear after registration and until such payment.

(j) To cause assessments to be levied and collected for the purpose of paying any obligations of the district in the manner hereinafter provided.

(k) To appoint and employ such engineers, attorneys, assistants and other employees as may be necessary and fix their compensation, including, if it deem advisable, a clerk, superintendent of work, assessor, treasurer and collector and define their powers and duties, and fix and determine the amount of bond required of each appointee and pay the premium on each such bond; which said officers and employees and each of them shall serve at the pleasure of the board.

The board shall have the power to combine any two or more offices in its discretion.

(*l*) To establish and fix the boundaries of zones in the district as provided in this act; to make transfers of money from the general fund of the district to any special fund and to create and administer such special funds as in their discretion may seem advisable, and to abolish same; to create and administer revolving funds to facilitate and assist in the carrying on and completing of such acquisitions, works, and improvements provided for herein, and to abolish same, and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(m) To make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality,

district, agency or mandatory of the State of California or of the United States and any department, board, bureau or commission of the State of California or the United States, or any person, firm, association or corporation, jointly or severally, for the acquisition of property or rights or the construction, maintenance and operation in whole or in part of any or all works and improvements provided in this act.

(n) To lease or rent to or from any of the parties named in subdivision (m) of this section any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement or the maintenance thereof herein provided and under such terms and conditions as may be agreed upon between the parties.

(o) To receive and accept any and all contributions in labor, material or money from any of the parties named in subdivision (m) of this section, to be applied to the work or improvement herein provided for.

(p) To construct, purchase, lease or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface waters and water rights, useful or necessary to make use of water for any purposes authorized by this act.

(q) To control flood and storm waters within the district and the flood and storm waters of streams outside of the district, which flow into the district; to conserve such waters by storage in surface reservoirs, to divert and transport such waters for beneficial uses within the district; to release such waters from surface reservoirs to replenish and augment the supply of waters in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district; and to do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including, but not limited to, irrigation, domestic, fire protection, municipal, commercial, industrial, and all other beneficial uses.

(r) To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902 and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of any contract so made; and for said purposes the district shall have in addition to the powers specifically set forth in this act, all powers, rights and privileges possessed by irrigation districts as set out in Chapter 2 of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.

SEC. 13. Section 2 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927) is amended to read:

Sec. 2. The objects and purposes of this act are to provide for the control of the flood and storm waters of said district, and the flood and storm waters of streams that have their source outside of said district, but which streams and the flood waters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining and causing to percolate into the soil within said district, or without such district, such waters, or to save or conserve in any manner all or any of such waters and protect from damage from such flood or storm waters, the harbors, waterways, public highways and property in said district.

Said Orange County Flood Control District is hereby declared to be a body corporate and politic and as such shall have power:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure

4. To take by grant, purchase, gift, devise or lease, and to hold, use, enjoy, and to sell, lease, exchange, or dispose of real or personal property of every kind, within or without the district, necessary to the full exercise of its powers.

5. To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and to construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as herein authorized.

6. To exercise the right of eminent domain, either within or without said district, to take any property necessary to carry out any of the objects or purposes of this act.

7. To incur indebtedness, and to issue bonds in the manner herein provided.

8. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner hereinafter provided.

9 To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

10. To grant or otherwise convey to counties, cities and counties, cities or towns, easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by said Orange County Flood Control District.

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dislodged, transported, conveyed or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of said district or elsewhere.

12. To lease, sell or dispose of any property (or any interest therein) whenever in the judgment of said board of supervisors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased, or included in community leases embracing adjoining lands, for any purpose (including leases for mining or extracting oil, gas, hydrocarbon substances or other minerals) without interfering with the use of the same for the purposes of said district, and whenever it appears that wells drilled upon private lands are draining or may drain oil, gas or other hydrocarbon substances from lands owned by the district and operations for the production of oil, gas or other hydrocarbons on such land owned by the district might interfere with the use of such land for the purposes of said district, to enter into agreements with the owners or operators of such wells for the payment of compensation to the district for such drainage in lieu of drilling offset wells upon such land owned by the district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act; provided, however, that nothing herein shall authorize the board of supervisors, or other governing body of the district, or any officer thereof, to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity, or any interest or space therein, except as hereinafter provided by Section 17 of this act; provided, however, that the district may grant to the United States of America, or any agency thereof authorized to accept and pay for such land, such parcels of land as lie within any channel, dam, or reservoir site, improved or constructed, in whole or in part, with federal funds, upon the payment to the district of the actual cost thereof as determined by the board of supervisors of the district. The district, by and through its board of supervisors, is hereby authorized to warrant and guarantee the title of all lands so transferred to the United States under the provisions of this section.

13 To monitor, test, or inspect drainage, flood, storm, or other waters within the district for the purpose of recording, determining, and reporting the quality of such waters to appropriate regional water quality control boards.

14. To assist the County of Orange and any city within the county in emergency operations to control or mitigate the effect of tides, waves, and ocean currents on the Orange County shoreline.

SEC. 14. Section 16 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927) is amended to read:

Sec. 16. The said board of supervisors of said district shall have power to make and enforce all needful rules and regulations for the administration and government of said district.

Said board of supervisors shall have power to do all work and to construct and acquire all improvements necessary or useful for carrying out any of the purposes of this act; and said board of supervisors shall have power to acquire either within or without the boundaries of said district, by purchase, donation or by other lawful

means in the name of said district, from private persons, corporations, reclamation districts, swampland districts, protection districts, drainage districts, irrigation districts, or other public corporations or agencies or districts, all lands, rights-of-way, easements, property or materials necessary or useful for carrying out any of the purposes of this act; to make contracts to indemnify or compensate any owner of land or other property for any injury or damage necessarily caused by the exercise of the powers conferred by this act, or arising out of the use, taking or damage of any property, rights-of-way or easements, for any such purposes; to compensate any reclamation district, protection district, drainage district, irrigation district or other district, public corporation or agency or district, for any right-of-way, easement or property taken over or acquired by said Orange County Flood Control District as a part of its work of flood control or conservation or protection provided for in this act, and any such reclamation district, protection district, drainage district, irrigation district or other district or public corporation or agency is hereby given power and authority to distribute such compensation in any manner that may be now or hereafter allowed by law; to maintain actions to restrain the doing of any act or thing that may be injurious to carrying out any of the purposes of this act by said district, or that may interfere with the successful execution of said work, or for damages for injury thereto; to do any and all things necessary or incident to the powers hereby granted, or to carry out any of the objects and purposes of this act; to compel by injunction the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal, so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along any such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose.

The board of supervisors of said district is hereby vested with full power to do all other acts or things necessary or useful for the promotion of the work of the control of the flood and storm waters of said district, and to conserve such waters for beneficial and useful purposes, and to protect from damage from such storm or floodwaters the harbors, waterways, public highways and property in said district; provided, however, that nothing in this act contained shall be deemed to authorize said district, or any person or persons, to divert the waters of any river, creek, stream, irrigation system, canal or ditch, from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless, previous compensation be first ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses; but provided, further, no right to take by condemnation

any property shall exist on behalf of said district at a greater distance than 15 miles outside the exterior boundaries thereof; and provided, further, that nothing in this act contained shall be construed as in any way affecting the plenary power of any incorporated city, city and county, or town, or municipal or county water district, to provide for a water supply of such public corporation, or as affecting the absolute control of any properties of such public corporations necessary for such water supply, and nothing herein contained shall be construed as vesting any power of control over such properties in said Orange County Flood Control District, or in any officer thereof, or in any person referred to in this act; and provided, further, that nothing in this act contained shall be deemed to authorize said board of supervisors to raise money for said district by any method or system other than that by the issuing of bonds, or the levying of a tax upon the assessed value of all the taxable property in said district in the manner in this act provided.

SEC. 15. Section 16.1 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927) is repealed.

SEC. 16. Section 3 of the Plumas County Flood Control and Water Conservation District Act (Chapter 2114 of the Statutes of 1959) is amended to read:

Sec. 3. The objects and purposes of this act are to provide, to the extent that the board may deem expedient or economical, for the control and disposition of the storm, flood, and other waters of said district and to that end the district is hereby created to be a body corporate and politic and as such shall have power.

(a) To have perpetual succession.

(b) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise or lease; to hold, use, enjoy, sell, and contract to sell, lease, or dispose of real, personal and mixed property of every kind within or without the district necessary, expedient or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire and contract to acquire by purchase, donation or other lawful means in the name of the district from private persons, public and private corporations, associations, agencies or districts, lands, rights-of-way, easements, privileges, material, and property of every kind within or without the district, to do all work and to acquire, construct, maintain and operate any and all works and improvements within or without the district, and to make, execute, carry out and enforce all contracts of every character, necessary, convenient, incidental, useful or proper to carry out any of the provisions, objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized.

(f) To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any

of the objects or purposes of this act. No action in eminent domain to acquire property or interests therein outside the boundaries of the County of Plumas shall be commenced unless the board of supervisors of each affected county has consented to such acquisition by resolution.

(g) To compel by injunction or other lawful means the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed, or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose or purposes. All costs of relocating or altering or otherwise changing existing works or structures shall be paid by the district; provided, however, that all costs of relocating or otherwise changing any portion of a state highway shall be paid for from funds available for rights-of-way for flood control purposes and not from funds appropriated for state highway purposes.

(h) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, drains, tunnels, poles, posts, wires, lamps, powerplants, railroads, dredgers and all other auxiliary, incidental, necessary or convenient agencies, work or improvements that may be required to carry out, facilitate, repair, maintain and complete the same.

(i) To incur indebtedness, and to issue bonds in the manner herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest such warrants shall bear after registration and until such payment.

(j) To cause assessments to be levied and collected for the purpose of paying any obligations of the district in the manner hereinafter provided.

(k) To appoint and employ such engineers, attorneys, assistants and other employees as may be necessary and fix their compensation, including, if it deem advisable, a clerk, superintendent of work, assessor, treasurer and tax collector, and define their powers and duties, and fix and determine the amount of bond required of each employee and pay the premium on each such bond; which said officers and employees and each of them shall serve at the pleasure of the board.

The board shall have the power to combine any two or more offices in its discretion.

(*l*) To establish and fix the boundaries of zones in the district as provided in this act; to make transfers of money from the general fund of the district to any special fund and to create and administer such special funds as in their discretion may seem advisable, and to abolish the same; to create and administer revolving funds to

facilitate and assist in the carrying on and completing of such acquisitions, works, and improvements provided for herein, and to abolish same; and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(m) To make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality, district, agency or mandatory of the State of California or of the United States and any department, board, bureau or commission of the State of California or the United States, or any person, firm, association or corporation, jointly or severally, for the acquisition of property rights or the construction, maintenance and operation in whole or in part of any or all works and improvements provided in this act.

(n) To lease or rent to or from any of the parties named in subdivision (m) of this section any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement or the maintenance thereof and under such terms and conditions as may be agreed upon between the parties.

(o) To receive and accept any and all contributions in labor, material or money from any of the parties named in subdivision (m) of this section, to be applied to the work or improvement herein provided for.

(p) To construct, purchase, lease or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface water and water rights, useful or necessary to make use of water for any of the purposes authorized by this act.

(q) To do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of lands or inhabitants within the district, including but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, recreational and all other beneficial uses.

(r) To control flood and storm waters within the district and the flood and storm waters or streams outside the district, which flow into the district; to conserve such waters by storage in surface reservoirs, to divert and transport such waters for beneficial uses within the district; to release such waters from surface reservoirs to replenish and augment the supply of water in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district; to commence, maintain, intervene in, defend or compromise, in the name of the district, on behalf of the landowners therein, or otherwise to assume the cost and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or of the common benefit of any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any

and all actions or proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare the rights in natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use, the surface or subsurface water used or useful in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of actions or controversies between the owners of lands or water rights which do not affect the interests of the district.

(s) To cooperate and act in conjunction with the United States or with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, or with the County of Plumas, in the construction of any work for the controlling of flood or storm waters of or flowing into said district, or for the protection of life or property therein, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

(t) To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, devise or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and to hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights,

works or other property of a kind which might be lawfully acquired or owned by said Plumas County Flood Control and Water Conservation District; to acquire by negotiation only the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water owned or controlled by the district or right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch, or conduit owned and controlled by the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual or any water right or water pumped, stored, appropriated or otherwise acquired or secured, for the use of the Plumas County Flood Control and Water Conservation District, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement.

(u) To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of any contract so made; and for said purposes the district shall have in addition to the powers specifically set forth in this act, all powers, rights and privileges possessed by irrigation districts as set out in Chapter 2 (commencing with Section 23175) of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.

(v) To construct, operate, and maintain works to develop hydroelectric energy as a means of assisting in financing the construction, operation and maintenance of works for other beneficial uses and purposes, and to enter into contracts for the sale of such energy for a term not to exceed 50 years. Such energy may be marketed only at wholesale rates to any public agency or private entity engaged in the sale or use of electric energy.

(w) Nothing herein contained shall be deemed to permit the district or its board of directors to acquire or interfere in existing water rights and water uses and facilities for distribution of the same on an involuntary basis, but nothing herein shall be deemed to prohibit negotiating and acquisition of existing rights, uses, and privileges in water by negotiation.

SEC. 17. Section 9 of the Riverside County Flood Control and

Water Conservation District Act (Chapter 1122 of the Statutes of 1945) is amended to read:

Sec. 9. The objects and purposes of this act are to provide for the control of the flood and storm waters of said district and the flood and storm waters of streams that have their source outside of said district, but which streams and the said waters thereof flow into said district, and to conserve such waters for beneficial and useful purposes by retarding, spreading, storing, retaining and causing to percolate into the soil within said district, or without said district, such waters, or to save or conserve in any manner all or any of such waters and protect from such flood or storm waters, the watercourses, watersheds, public highways, life and property in said district, and to prevent waste of water or diminution of the water supply in, or unlawful exportation of water from said district, and to obtain, retain and reclaim drainage, storm, flood and other waters for beneficial use in said district.

Riverside County Flood Control and Water Conservation District is hereby declared to be a body corporate and politic and as such shall have power:

1. To have perpetual succession.

2. To adopt a seal and alter it at pleasure.

3. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

4. To acquire, by purchase, lease, construction or otherwise, or contract to acquire, lands, rights-of-way, easements, privileges and property of any kind, whether real, personal or mixed, and to construct, maintain and operate any and all works or improvements within or without the district necessary, convenient or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements or property acquired by it as authorized by this act; to indemnify or compensate any owner of land or other property for any injury or damage caused by the exercise of the powers conferred by this act.

5. To take by grant, purchase, gift, devise or lease, or otherwise, to hold, use, enjoy and to lease or dispose of real, personal or mixed property of every kind within or without the district necessary or convenient to the full exercise of its powers, and to lease its property to public agencies, or to grant any interest therein to public agencies, which lease or grant does not interfere with the use of the property for the purposes of the district.

6. To incur indebtedness, and to issue bonds in the manner herein provided.

7. To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district or a zone or zones thereof; to conserve and reclaim water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside the district, same for any useful purpose to the

district; to commence, maintain, intervene in and compromise, in the name of the district, or otherwise, and to assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of water or water rights within the district used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein, to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions and proceedings hereafter begun; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface water used in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in the district; provided, however, that the said district shall not have the power to intervene or take part in, or to pay the costs or expenses of actions or controversies between the owners of lands or water rights within the boundaries of the district and which do not involve taking water outside or away from the district.

8. To control the flood and storm waters of said district and the flood and storm waters of streams that have their source outside of said district, but which streams and the floodwaters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes within said district by retarding, spreading, storing, retaining and causing to percolate into the soil within or without said district, or to save and conserve in any manner all or any of such waters and protect from damage from such flood or storm waters the watercourses, watersheds, public highways, life and property in said district; provided, that water rights now existing be not thereby infringed upon.

9. To exercise the right of eminent domain, either within or without said district, to take any property necessary to carry out any of the objects or purposes of this act. Nothing in this act contained shall be deemed to authorize said district, or any person or persons to divert the waters of any river, creek, stream, irrigation system, canal or ditch, from its channel, to the injury or detriment of any person, or persons, having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless compensation be first ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public use; and provided further, that no right shall exist in behalf of said district to take by condemnation any property, including water rights, that is now devoted to beneficial use in Orange County; nor to take by condemnation any water rights or property necessary for exercising said water rights that are now devoted to beneficial use, or are now in the process of being devoted to beneficial use in Orange County, within an area along and adjacent to the trunk channel of the Santa Ana River extending from the easterly boundary of Orange County to the Jurupa Narrows and lying

between the bluffs on either side of said river, but excluding therefrom any part of the Corona underground water basin as said basin is defined in that certain action in the Superior Court of the State of California, in and for the County of Riverside, numbered 22046, and entitled the Corona Foothill Lemon Company, a corporation, et al. vs. Charles E. Lillibridge, et al

10 To enter upon any land, to make surveys and locate the necessary works of improvement and the lines of channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, whether in this or in another state, including works constructed and being constructed by private owners, lands for reservoirs, for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and hold the stock of corporations, domestic or foreign, owning water or water rights, canals, waterworks, powerplants, franchises, concessions or rights; to enter into and to do any and all acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by said Riverside County Flood Control and Water Conservation District; to acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant any owner or lessee the right to the use of any water or the right to store such water in any reservoir of the district or to carry such water through any tunnels, canal, ditch or conduit of the district; to enter into and to do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual of any water right or water pumped, stored, appropriated or otherwise acquired, or secured for the use of the Riverside County Flood Control and Water Conservation District, or for the purpose of exchanging the same for other water, water right or water supply to be delivered to said district by the other party to said agreement; to cooperate with, and to act in conjunction with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, in the construction of any work for the controlling of flood or storm waters of said district, or for the protection of life or property therein, or for the purpose of

conserving said waters for beneficial use within said district, or in any such works, acts, or purpose provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose as authorized herein.

11. To cause taxes and assessments to be levied and collected for the purpose of paying any obligation of the district and to carry out any of the purposes of this act, in the manner hereinafter provided.

12. To carry on technical and other investigations of all kinds, make measurements, collect data and make analyses, studies, and inspections pertaining to water supply, water rights, control of floods and use of water, both within and without said district, and for such purposes said district shall have the right of access through its authorized representatives to all properties within said district.

13. To make contracts and to employ labor and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof by this act.

SEC. 18. Section 9.2 of the Riverside County Flood Control and Water Conservation District Act (Chapter 1122 of the Statutes of 1945) is repealed.

SEC. 19. Section 2 of the San Bernardino County Flood Control Act (Chapter 73 of the Statutes of 1939) is amended to read:

Sec. 2 The objects and purposes of this act are to provide for the control of the flood and storm waters of said district and the flood and storm waters of streams that have their source outside of said district, but which streams and the flood waters thereof flow into said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining and causing to percolate into the soil within said district, or without such district, such waters, or to save or conserve in any manner all or any of such waters and protect from such flood or storm waters, the watercourses, watersheds, public highways, life and property in said district, and to prevent waste of water or diminution of the water supply in, or exportation of water from said district, and to obtain, retain and reclaim drainage, storm, flood and other waters for beneficial use in said district.

San Bernardino County Flood Control District is hereby declared to be a body corporate and politic and as such shall have power:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, or otherwise, and to hold, use, enjoy and to lease or dispose of real or personal property of every kind within or without the district necessary or convenient to the full exercise of its powers.

5. To acquire, by purchase, lease, construction or otherwise, or contract to acquire, lands, rights-of-way, easements, privileges and property of every kind, whether real or personal, and to construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the

objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements or property acquired by it as authorized by this act.

6. To store water in surface or underground reservoirs within or outside of the district for the common benefit of the district; to conserve and reclaim water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside of the district, same for any useful purpose to the district; to commence, maintain, intervene in and compromise, in the name of the district, or otherwise, and to assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within the district used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions and proceedings now or hereafter begun, to prevent interference with or diminution of, or to declare rights in the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface water used in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights within the boundaries of the district and which do not involve taking water outside of or away from the district; and provided further, that said district shall have no power to transport the waters of the Mojave River to any other zone of said district.

7. To control the flood and storm waters of said district and the flood and storm waters of streams that have their source outside of said district, but which streams and the flood waters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes within said district by spreading, storing, retaining and causing to percolate into the soil within or without said district, or to save or conserve in any manner all or any of such waters and protect from damage from such flood or storm waters the watercourses, watersheds, public highways, life and property in said district.

8. To exercise the right of eminent domain, either within or without said district, to take any property necessary to carry out any of the objects or purposes of this act. Nothing in this act contained shall be deemed to authorize said district, or any person or persons to divert the waters of any river, creek, stream, irrigation system,

canal or ditch, from its channel, to the detriment of any person or persons having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless previous compensation be first ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses.

9. To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, whether in this or in other states, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and hold the stock of corporations, domestic or foreign, owning water or water rights, canals, waterworks, powerplants, franchises, concessions or rights; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by said San Bernardino County Flood Control District; to acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water or the right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch or conduit of the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual of any water right or water pumped, stored, appropriated or otherwise acquired or secured for the use of the San Bernardino Flood Control District, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement; to cooperate with and to act in conjunction with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments, or agencies, or with any public or private corporation, in the construction of any work for the controlling of flood or storm waters of said district, or for the protection of life or property therein, or for the purpose of

conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

10. To carry on technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies and inspections pertaining to water supply, water rights, control of floods and use of water, both within and without said district, and for this purpose said district shall have the right of access through its authorized representative to all properties within said district.

11. To incur indebtedness, and to issue bonds in the manner herein provided.

12. To cause taxes to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act, in the manner hereinafter provided.

13. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

SEC. 20. Section 23 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is amended to read:

Sec. 23. It may exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

SEC. 21. Section 24 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is repealed.

SEC. 22. Section 41 of the Santa Cruz County Flood Control and Water Conservation District Act (Chapter 1489 of the Statutes of 1955) is amended to read:

Sec. 41. It may acquire and contract to acquire by purchase, donation or other lawful means in the name of the district from private persons, public and private corporations, associations, agencies or districts, lands, rights-of-way, easements, privileges, material and property of every kind within or without the district or county.

SEC. 23. Section 3 of the Sierra County Flood Control and Water Conservation District Act (Chapter 2123 of the Statutes of 1959) is amended to read:

Sec. 3. The objects and purposes of this act are to provide, to the extent that the board may deem expedient or economical, for the control and disposition of the storm, flood, and other waters of said district and to that end the district is hereby created to be a body corporate and politic and as such shall have power.

(a) To have perpetual succession.

(b) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise or lease; to hold, use, enjoy, sell, and contract to sell, lease, or dispose of real, personal and

mixed property of every kind within or without the district necessary, expedient or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire and contract to acquire by purchase, donation or other lawful means in the name of the district from private persons, public and private corporations, associations, agencies or districts, lands, rights-of-way, easements, privileges, material, and property of every kind within or without the district, to do all work and to acquire, construct, maintain and operate any and all works and improvements within or without the district, and to make, execute, carry out and enforce all contracts of every character, necessary, convenient, incidental, useful or proper to carry out any of the provisions, objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized.

(f) To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act. No action in eminent domain to acquire property or interests therein outside the boundaries of the County of Sierra shall be commenced unless the board of supervisors of each affected county has consented to such acquisition by resolution.

(g) To compel by injunction or other lawful means the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed, or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose or purposes. All costs of relocating or altering or otherwise changing existing works or structures shall be paid by the district; provided, however, that all costs of relocating or otherwise changing any portion of a state highway shall be paid for from funds available for rights-of-way for flood control purposes and not from funds appropriated for state highway purposes.

(h) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, drains, tunnels, poles, posts, wires, lamps, powerplants, railroads, dredgers and all other auxiliary, incidental, necessary or convenient agencies, work or improvements that may be required to carry out, facilitate, repair, maintain and complete the same.

(i) To incur indebtedness, and to issue bonds in the manner herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest such warrants shall bear after registration and until such payment.

(j) To cause assessments to be levied and collected for the purpose

of paying any obligations of the district in the manner hereinafter provided.

(k) To appoint and employ such engineers, attorneys, assistants and other employees as may be necessary and fix their compensation, including, if it deem advisable, a clerk, superintendent of work, assessor, treasurer and tax collector, and define their powers and duties, and fix and determine the amount of bond required of each employee and pay the premium on each such bond; which said officers and employees and each of them shall serve at the pleasure of the board.

The board shall have the power to combine any two or more offices in its discretion.

(*l*) To establish and fix the boundaries of zones in the district as provided in this act; to make transfers of money from the general fund of the district to any special fund and to create and administer such special funds as in their discretion may seem advisable, and to abolish the same; to create and administer revolving funds to facilitate and assist in the carrying on and completing of such acquisitions, works, and improvements provided for herein, and to abolish same; and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(m) To make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality, district, agency or mandatory of the State of California or of the United States and any department, board, bureau or commission of the State of California or the United States, or any person, firm, association or corporation, jointly or severally, for the acquisition of property rights or the construction, maintenance and operation in whole or in part of any or all works and improvements provided in this act.

(n) To lease or rent to or from any of the parties named in subdivision (m) of this section any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement or the maintenance thereof and under such terms and conditions as may be agreed upon between the parties.

(o) To receive and accept any and all contributions in labor, material or money from any of the parties named in subdivision (m) of this section, to be applied to the work or improvement herein provided for.

(p) To construct, purchase, lease or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface water and water rights, useful or necessary to make use of water for any of the purposes authorized by this act.

(q) To do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of lands or inhabitants within the district, including but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial,

recreational and all other beneficial uses.

(r) To control flood and storm waters within the district and the flood and storm waters or streams outside the district, which flow into the district; to conserve such waters by storage in surface reservoirs, to divert and transport such waters for beneficial uses within the district; to release such waters from surface reservoirs to replenish and augment the supply of water in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district; to commence, maintain, intervene in, defend or compromise, in the name of the district, on behalf of the landowners therein, or otherwise to assume the cost and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or of the common benefit of any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions or proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare the rights in natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use, the surface or subsurface water used or useful in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of actions or controversies between the owners of lands or water rights which do not affect the interests of the district

(s) To cooperate and act in conjunction with the United States or with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, or with the County of Siskiyou, in the construction of any work for the controlling of flood or storm waters of or flowing into said district, or for the protection of life or property therein, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

(t) To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, devise or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and

being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and to hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by said Sierra County Flood Control and Water Conservation District; to acquire by negotiation only the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water owned or controlled by the district or right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch, or conduit owned and controlled by the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual or any water right or water pumped, stored, appropriated or otherwise acquired or secured, for the use of the Sierra County Flood Control and Water Conservation District, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement.

(u) To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of any contract so made; and for said purposes the district shall have in addition to the powers specifically set forth in this act, all powers, rights and privileges possessed by irrigation districts as set out in

Chapter 2 (commencing with Section 23175) of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.

(v) To construct, operate, and maintain works to develop hydroelectric energy as a means of assisting in financing the construction, operation and maintenance of works for other beneficial uses and purposes, and to enter into contracts for the sale of such energy for a term not to exceed 50 years. Such energy may be marketed only at wholesale rates to any public agency or private entity engaged in the sale or use of electric energy.

(w) Nothing herein contained shall be deemed to permit the district or its board of directors to acquire or interfere in existing water rights and water uses and facilities for distribution of the same on an involuntary basis, but nothing herein shall be deemed to prohibit negotiating and acquisition of existing rights, uses, and privileges in water by negotiation.

SEC. 24. Section 3 of the Siskiyou County Flood Control and Water Conservation District Act (Chapter 2121 of the Statutes of 1959) is amended to read:

Sec. 3. The objects and purposes of this act are to provide, to the extent that the board may deem expedient or economical, for the control and disposition of the storm, flood, and other waters of said district and to that end the district is hereby created to be a body corporate and politic and as such shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise or lease; to hold, use, enjoy, sell, and contract to sell, lease, or dispose of real, personal and mixed property of every kind within or without the district necessary, expedient or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire and contract to acquire by purchase, donation or other lawful means in the name of the district from private persons, public and private corporations, associations, agencies or districts, lands, rights-of-way, easements, privileges, material, and property of every kind within or without the district, to do all work and to acquire, construct, maintain and operate any and all works and improvements within or without the district, and to make, execute, carry out and enforce all contracts of every character, necessary, convenient, incidental, useful or proper to carry out any of the provisions, objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized.

(f) To exercise the right of eminent domain to take any property located within the county necessary to carry out any of the objects or purposes of this act.

(g) To compel by injunction or other lawful means the owner or owners of any bridge, trestle, wire line, viaduct, embankment or

other structure which shall be intersected, traversed, or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose or purposes. All costs of relocating or altering or otherwise changing existing works or structures shall be paid by the district; provided, however, that all costs of relocating or otherwise changing any portion of a state highway shall be paid for from funds available for rights-of-way for flood control purposes and not from funds appropriated for state highway purposes.

(h) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, drains, tunnels, poles, posts, wires, lamps, powerplants, railroads, dredgers and all other auxiliary, incidental, necessary or convenient agencies, work or improvements that may be required to carry out, facilitate, repair, maintain and complete the same.

(i) To incur indebtedness, and to issue bonds in the manner herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest such warrants shall bear after registration and until such payment.

(j) To cause assessments to be levied and collected for the purpose of paying any obligations of the district in the manner hereinafter provided.

(k) To appoint and employ such engineers, attorneys, assistants and other employees as may be necessary and fix their compensation, including, if it deem advisable, a clerk, superintendent of work, assessor, treasurer and tax collector, and define their powers and duties, and fix and determine the amount of bond required of each employee and pay the premium on each such bond; which said officers and employees and each of them shall serve at the pleasure of the board.

The board shall have the power to combine any two or more offices in its discretion.

(*l*) To establish and fix the boundaries of zones in the district as provided in this act; to make transfers of money from the general fund of the district to any special fund and to create and administer such special funds as in their discretion may seem advisable, and to abolish the same; to create and administer revolving funds to facilitate and assist in the carrying on and completing of such acquisitions, works, and improvements provided for herein, and to abolish same; and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(m) To make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality,

district, agency or mandatory of the State of California or of the United States and any department, board, bureau or commission of the State of California or the United States, or any person, firm, association or corporation, jointly or severally, for the acquisition of property rights or the construction, maintenance and operation in whole or in part of any or all works and improvements provided in this act.

(n) To lease or rent to or from any of the parties named in subdivision (m) of this section any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement or the maintenance thereof and under such terms and conditions as may be agreed upon between the parties.

(o) To receive and accept any and all contributions in labor, material or money from any of the parties named in subdivision (m) of this section, to be applied to the work or improvement herein provided for.

(p) To construct, purchase, lease or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface water and water rights, useful or necessary to make use of water for any of the purposes authorized by this act.

(q) To do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of lands or inhabitants within the district, including but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, recreational and all other beneficial uses.

(r) To control flood and storm waters within the district and the flood and storm waters or streams outside the district, which flow into the district; to conserve such waters by storage in surface reservoirs, to divert and transport such waters for beneficial uses within the district; to release such waters from surface reservoirs to replenish and augment the supply of water in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district; to commence, maintain, intervene in, defend or compromise, in the name of the district, on behalf of the landowners therein, or otherwise to assume the cost and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or of the common benefit of any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions or proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare the rights in natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use, the surface

or subsurface water used or useful in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of actions or controversies between the owners of lands or water rights which do not affect the interests of the district.

(s) To cooperate and act in conjunction with the United States or with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, or with the County of Siskiyou, in the construction of any work for the controlling of flood or storm waters of or flowing into said district, or for the protection of life or property therein, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

(t) To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, devise or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and to hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by said Siskiyou County Flood Control and Water Conservation District; to acquire by negotiation only the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water owned or controlled by the district or right to store such water in any reservoir

of the district, or to carry such water through any tunnels, canal, ditch, or conduit owned and controlled by the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual or any water right or water pumped, stored, appropriated or otherwise acquired or secured, for the use of the Siskiyou County Flood Control and Water Conservation District, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement.

(u) To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of any contract so made; and for said purposes the district shall have in addition to the powers specifically set forth in this act, all powers, rights and privileges possessed by irrigation districts as set out in Chapter 2 (commencing with Section 23175) of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.

(v) To construct, operate, and maintain works to develop hydroelectric energy as a means of assisting in financing the construction, operation and maintenance of works for other beneficial uses and purposes, and to enter into contracts for the sale of such energy for a term not to exceed 50 years. Such energy may be marketed only at wholesale rates to any public agency or private entity engaged in the sale or use of electric energy.

(w) Nothing herein contained shall be deemed to permit the district or its board of directors to acquire or interfere in existing water rights and water uses and facilities for distribution of the same on an involuntary basis, but nothing herein shall be deemed to prohibit negotiating and acquisition of existing rights, uses, and privileges in water by negotiation.

SEC. 25. Section 3.4 of the Solano County Flood Control and Water Conservation District Act (Chapter 1656 of the Statutes of 1951) is amended to read:

Sec. 3.4. The district may exercise the power of eminent domain to acquire within the district any property necessary or convenient for carrying out the powers and purposes of the district except that the district shall not have power to acquire by condemnation publicly owned property held or used for the development, storage

or distribution of water for public use. The district in exercising such power shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal or relocation of any structure, railways, mains, pipes, conduits, wires, cables or poles, of any public utility which is required to be moved to a new location.

SEC. 26. Section 3 of the Sonoma County Flood Control and Water Conservation District Act (Chapter 994 of the Statutes of 1949) is amended to read:

Sec. 3. The objects and purposes of this act are to provide, to the extent that the board may deem expedient or economical for water conservation, the control and disposition of flood, storm and other waters of the district, and the generating electric energy, and to that end the district is hereby created to be a body corporate and politic and as such shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To obtain by grant, purchase, gift, devise or lease; to hold, use, enjoy, sell, and contract to sell, lease, or dispose of real, personal and mixed property of every kind within or without the district necessary, expedient or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire and contract to acquire by purchase, dedication, donation or other lawful means in the name of the district from private persons, public and private corporations, associations, agencies or districts, lands, rights-of-way, easements, privileges, material, and property of every kind within or without the district, to do all work and to acquire, construct, maintain and operate any and all works and improvements within or without the district, and to make, execute, carry out and enforce all contracts of every character, necessary, convenient, incidental, useful or proper to carry out any of the provisions, objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized.

(f) To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

(g) To compel by injunction or other lawful means the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed, or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along any such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose or purposes. All costs of relocating or otherwise changing any portion of a state highway shall be paid from funds available for rights-of-way for flood control

purposes and not from funds appropriated for state highway purposes. All costs of relocating or otherwise changing any portion of a county highway shall be paid from funds available for rights-of-way for flood control purposes, unless the county road commissioner recommends to the board of supervisors that the cost of relocating a particular county highway should be paid from funds appropriated for county highway purposes, and the board of supervisors, upon said recommendation, finds that the relocating of said highway is of general benefit to the county.

(h) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, tunnels, drains, poles, posts, wires, lamps, powerplants, railroads, dredgers and all other auxiliary, incidental, necessary or convenient agencies, work or improvements that may be required to carry out, facilitate, repair, maintain and complete the same

(i) To incur indebtedness, and to issue bonds in the manner herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest such warrants shall bear after registration and until such payment.

(j) To cause assessments to be levied and collected for the purpose of paying any obligations of the district in the manner hereinafter provided.

(k) To appoint and employ such engineers, attorneys, assistants and other employees as may be necessary and fix their compensation, including, if it deem advisable, a clerk, superintendent of work, assessor, treasurer and collector and define their powers and duties, and fix and determine the amount of bond required of each appointee and pay the premium on each such bond; which said officers and employees and each of them shall serve at the pleasure of the board.

The board shall have the power to combine any two or more offices in its discretion.

(*l*) To make transfers of money from the general fund of the district to any special fund and to create and administer such special funds as in their discretion may seem advisable, and to abolish same; to create and administer revolving funds to facilitate and assist in the carrying on and completing of such acquisitions, works, and improvements provided for herein, and to abolish same; and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(m) To make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality, district, agency or mandatory of the State of California or of the United States and any department, board, bureau or commission of the State of California or the United States, or any person, firm, association or corporation, jointly or severally, for the acquisition of property or rights or the construction, maintenance and operation in

whole or in part of any or all works and improvements provided in this act.

(n) To lease or rent to or from any of the parties named in subdivision (m) of this section any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement or the maintenance thereof herein provided and under such terms and conditions as may be agreed upon between the parties.

(o) To receive and accept any and all contributions in labor, material or money from any of the parties named in subdivision (m) of this section, to be applied to the work or improvement herein provided for.

(p) To construct, purchase, lease or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface waters and water rights, useful or necessary to make use of water for any purposes authorized by this act.

(q) To control flood and storm waters within the district and the flood and storm waters of streams outside of the district, which flow into the district; to construct any and all necessary drains or any other works and do any and every lawful act necessary to be done that the lands and other property within the district may be drained and protected from the effects of water, to maintain, repair, improve or protect any drains or other works which are deemed necessary, to do any and all works necessary for the drainage of the lands of the district, to locate and acquire land needed for rights-of-way, including drains, canals, sloughs, water gates, embankments and watercourses, and to construct works necessary to provide drains, canals, sloughs, water gates, embankments and watercourses and to provide the materials for said construction; to conserve such waters by storage in surface reservoirs, to divert and transport such waters for beneficial uses within the district; to do any act necessary to furnish sufficient water in the district for any present or future beneficial use, to sell water for the benefit of the district, conserve water for future use, and appropriate, acquire, and conserve water and water rights for any useful purpose, to operate works and exercise water rights, property rights and privileges useful or necessary to convey, supply, sell, or make use of water for any purpose authorized herein, to supply, provide, and transport water for recreational purposes within or without the district; to release such waters from surface reservoirs to replenish and augment the supply of waters in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district; to do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including, but not limited to, irrigation, domestic, fire protection, municipal, commercial, industrial, and all other beneficial uses; and to fix rates and charges for such purposes, all revenues received from the collection of the rates and charges as

fixed to be used as follows: (a) to pay interest on a bonded debt; (b) so far as possible, provide a fund for the payment of the principal of the bonded debt as it becomes due; (c) pay the operating expenses of the district; (d) pay repairs and depreciation of works owned or operated by the district.

(r) To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902 and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of any contract so made; and for said purposes the district shall have in addition to the powers specifically set forth in this act, all powers, rights and privileges possessed by irrigation districts as set out in Chapter 2 (commencing with Section 23175) of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.

(s) To prescribe, revise and collect rates or other charges for the services and facilities furnished by it, and may pledge, place a charge upon, contribute or otherwise make available, as security or additional security for the payment of any revenue bonds issued by the district any and all revenues received or receivable from any services or facilities furnished by it

The district may provide that charges for any services or facilities shall be collected together with and not separately from the charges for other revenues or facilities rendered by it, and that all charges shall be billed upon the same bill and collected as one item. If all or part of a bill is not paid, the district may discontinue any or all services or facilities for which the bill is rendered.

The district may provide for the collection of charges. Remedies for their collection and enforcement are cumulative and may be pursued alternatively or consecutively as the district determines.

The district may provide for a basic penalty of not more than 10 percent for nonpayment of the charges within the time and in the manner prescribed by it, and in addition may provide for a penalty of not exceeding one-half of 1 percent per month for nonpayment of the charges and basic penalty. It may provide for collection of the penalties herein provided for.

SEC. 27. Section 3 of the Tehama County Flood Control and Water Conservation District Act (Chapter 1280 of the Statutes of 1957) is amended to read:

Sec. 3. The objects and purposes of this act are to provide, to the extent that the board may deem expedient or economical, for the control and disposition of the storm and flood waters of said district and to that end the district is hereby created to be a body corporate and politic and as such shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise or lease; to hold, use, enjoy, sell, and contract to sell, lease, or dispose of real, personal and mixed property of every kind within or without the district necessary, expedient or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire and contract to acquire by purchase, donation or other lawful means in the name of the district from private persons, public and private corporations, associations, agencies or districts, lands, rights-of-way, easements, privileges, material, and property of every kind within or without the district, to do all work and to acquire, construct, maintain and operate any and all works and improvements within or without the district, and to make, execute, carry out and enforce all contracts of every character, necessary, convenient, incidental, useful or proper to carry out any of the provisions, objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized.

(f) To exercise the right of eminent domain to take any property located within the county necessary to carry out any of the objects or purposes of this act.

(g) To compel by injunction or other lawful means the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed, or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal so to construct or alter the same as to offer a minimum of obstruction to the free flow of water through or along such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose or purposes. All costs of relocating or altering or otherwise changing existing works or structures shall be paid by the district; provided, however, that all costs of relocating or otherwise changing any portion of a state highway shall be paid for from funds available for rights-of-way for flood control purposes and not from funds appropriated for state highway purposes.

(h) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, drains, tunnels, poles, posts, wires, lamps, powerplants, railroads, dredgers and all other auxiliary, incidental, necessary or convenient agencies, work or improvements that may be required to carry out, facilitate, repair, maintain and complete the same.

(i) To incur indebtedness, and to issue bonds in the manner herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest such

warrants shall bear after registration and until such payment.

(j) To cause assessments to be levied and collected for the purpose of paying any obligations of the district in the manner hereinafter provided.

(k) To appoint and employ such engineers, attorneys, assistants and other employees as may be necessary and fix their compensation, including, if it deem advisable, a clerk, superintendent of work, assessor, treasurer and tax collector, and define their powers and duties, and fix and determine the amount of bond required of each employee and pay the premium on each such bond; which said officers and employees and each of them shall serve at the pleasure of the board.

The board shall have the power to combine any two or more offices in its discretion.

(*l*) To establish and fix the boundaries of zones, or abolish the same, in the district as provided in this act; to make transfers of money from the general fund of the district to any special fund and to create and administer such special funds as in their discretion may seem advisable, and to abolish the same; to create and administer revolving funds to facilitate and assist in the carrying on and completing of such acquisitions, works, and improvements provided for herein, and to abolish same; and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(m) To make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality, district, agency or mandatory of the State of California or of the United States and any department, board, bureau or commission of the State of California or the United States, or any person, firm, association or corporation, jointly or severally, for the acquisition of property rights or the construction, maintenance and operation in whole or in part of any or all works and improvements provided in this act.

(n) To lease or rent to or from any of the parties named in subdivision (m) of this section any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement or the maintenance thereof and under such terms and conditions as may be agreed upon between the parties.

(o) To receive and accept any and all contributions in labor, material or money from any of the parties named in subdivision (m) of this section, to be applied to the work or improvement herein provided for.

(p) To construct, purchase, lease or otherwise acquire works, and to purchase, lease, appropriate, or otherwise acquire surface water and water rights, useful or necessary to make use of water for any of the purposes authorized by this act

(q) To do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of lands or inhabitants within the district, including but

not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, recreational and all other beneficial uses.

(r) To control flood and storm waters within the district and the flood and storm waters or streams outside the district, which flow into the district; to conserve such waters by storage in surface reservoirs, to divert and transport such waters for beneficial uses within the district; to release such waters from surface reservoirs to replenish and augment the supply of water in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district; to commence, maintain, intervene in, defend or compromise, in the name of the district, on behalf of the landowners therein, or otherwise to assume the cost and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or of the common benefit of any land situated therein, or involving the wasteful use of water therein, to commence, maintain, intervene in, defend and compromise and to assume the cost and expenses of any and all actions or proceedings now or hereafter begun; to prevent interference with or diminution of, or to declare the rights in natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use, the surface or subsurface water used or useful in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in, or flowing into, the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of actions or controversies between the owners of lands or water rights which do not affect the interests of the district.

(s) To cooperate and act in conjunction with the United States or with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, or with the County of Tehama, in the construction of any work for the controlling of flood or storm waters of or flowing into said district, or for the protection of life or property therein, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

(t) To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, devise or other legal means all lands and water and water rights and other property necessary or

convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and to hold the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by said Tehama County Flood Control and Water Conservation District; to acquire by negotiation only the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water owned or controlled by the district or right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch, or conduit owned and controlled by the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual or any water right or water pumped, stored, appropriated or otherwise acquired or secured, for the use of the Tehama County Flood Control and Water Conservation District, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement.

(u) To cooperate and contract with the United States under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation or contract for the purposes of construction of works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply for any purposes, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and to carry out and perform the terms of

any contract so made; and for said purposes the district shall have in addition to the powers specifically set forth in this act, all powers, rights and privileges possessed by irrigation districts as set out in Chapter 2 (commencing with Section 23175) of Part 6 of Division 11 of the Water Code, not inconsistent with the provisions of this act.

(v) Nothing herein contained shall be deemed to permit the district or its board of directors to acquire or interfere in existing water rights and water uses and facilities for distribution of the same on an involuntary basis, but nothing herein shall be deemed to prohibit negotiating and acquisition of existing rights, uses, and privileges in water by negotiation.

SEC. 28. Section 7 of the Ventura County Flood Control Act (Chapter 44 of the Statutes of 1944, Second Extraordinary Session) is amended to read:

Sec. 7. The objects and purposes of this act are to provide for the control of the flood and storm waters of said district and the flood and storm waters of streams that have their source outside of said district, but which streams and the floodwaters thereof flow into said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining and causing to percolate into the soil within said district, or without such district, such waters, or to save or conserve in any manner all or any of such waters and protect from such flood or storm waters the watercourses, watersheds, public highways, life and property in said district, and to prevent waste of water or diminution of the water supply in, or exportation of water from said district, and to obtain, retain and reclaim drainage, storm, flood and other waters for beneficial use in said district.

Ventura County Flood Control District is hereby declared to be a body corporate and politic and as such shall have power:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, or otherwise, and to hold, use, enjoy and to lease or dispose of real or personal property of every kind within or without the district necessary or convenient to the full exercise of its powers.

5. To acquire, by purchase, lease, construction, or otherwise, or contract to acquire, lands, right-of-way, easements, privileges and property of every kind, whether real or personal, and to construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements or property acquired by it as authorized by this act.

6 To store water in surface or underground reservoirs within or outside of the district for the common benefit of a zone or zones affected; to conserve and reclaim water for present and future use within the district; to appropriate and acquire water and water

rights, and import water into the district and to conserve within or outside of the district, same for any useful purpose to the district; to commence, maintain, intervene in and compromise, in the name of the district, or otherwise, and to assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within the district used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the costs and expenses of any and all actions and proceedings now or hereafter begun to prevent interference with or diminution of, or to declare rights in the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface water used in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights within the boundaries of the district and which do not involve taking water outside of or away from the district or wasteful use of water.

7. To control the flood and storm waters of said district and the flood and storm waters of streams that have their source outside of said district, but which streams and the floodwaters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes within said district by spreading, storing, retaining and causing to percolate into the soil within or without said district, or to save or conserve in any manner all or any of such waters and protect from damage from such flood or storm waters the watercourses, watersheds, public highways, life and property in said district.

8. To exercise the right of eminent domain, either within or without said district, to take any property necessary to carry out any of the objects or purposes of this act. Nothing in this act contained shall be deemed to authorize said district, or any person or persons to divert the waters of any river, creek, stream, irrigation system, canal or ditch, from its channel, to the detriment of any person, or persons having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless previous compensation be first ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses.

9. To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by

purchase, lease, contract, gift, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and hold the stock of corporations, domestic or foreign, owning water or water rights, canals, water works, franchises, concessions or rights; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by said Ventura County Flood Control District; to acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water or right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch, or conduit of the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer, sale or delivery to any such district, corporation, association, firm or individual of any water right or water pumped, stored, appropriated or otherwise acquired or secured for the use of the Ventura County Flood Control District or any zone thereof, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement; to cooperate with, and to act in conjunction with, the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with the Government of the United States, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, in the construction of any work for the controlling of flood or storm waters of said district, or for the protection of life or property therein, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

10. To carry on technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, water rights, control of floods and use of water, both within and without said district, and for this purpose said district shall have the right of access through its authorized representative to all properties within said district.

11. To incur indebtedness and to issue bonds in the manner herein provided.

12. To cause taxes and assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act, in the manner hereinafter provided

13. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

SEC. 29. Section 3 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951) is amended to read:

Sec. 3. The objects and purposes of this act are to provide, to the extent that the board may deem expedient or economical, for the control and disposition of the storm and flood waters of said district and to that end the district is hereby created to be a body corporate and politic and as such shall have power:

(a) To have perpetual succession.

(b) To sue and be sued in the name of the district in all actions and proceedings in all courts and tribunals of competent jurisdiction

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise or lease; to hold, use, enjoy, sell, and contract to sell, lease, or dispose of real, personal and mixed property of every kind within or without the district necessary, expedient or advantageous to the full exercise and economic enjoyment of its purposes.

(e) To acquire and contract to acquire by purchase, donation or other lawful means in the name of the district from private persons, public and private corporations, associations, agencies or districts, lands, rights-of-way, easements, privileges, material, and property of every kind within or without the district, to do all work and to acquire, construct, maintain and operate any and all works and improvements within or without the district, and to make, execute, carry out and enforce all contracts of every character, necessary, convenient, incidental, useful or proper to carry out any of the provisions, objects or purposes of this act, and to complete, extend, add to, repair, or otherwise improve any works or improvements acquired by it as herein authorized.

(f) To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

No action in eminent domain to acquire property or interests therein outside the boundaries of Yolo County shall be commenced unless the board of supervisors of each affected county has consented to such acquisition by resolution

(g) To compel by injunction or other lawful means the owner or owners of any bridge, trestle, wire line, viaduct, embankment or other structure which shall be intersected, traversed, or crossed by any channel, ditch, bed of any stream, waterway, conduit or canal so to construct or alter the same as to offer a minimum of obstruction

to the free flow of water through or along any such channel, ditch, bed of any stream, waterway, conduit or canal, and whenever necessary in the case of existing works or structures, to compel the removal or alteration thereof for such purpose or purposes. Cost of relocating or otherwise changing any portion of a state highway shall not be paid from funds appropriated for state highway purposes, except that such funds may be used for betterment thereof in connection with such relocation or change.

(h) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, tunnels, drains, poles, posts, wires, lamps, powerplants, railroads, dredgers and all other auxiliary, incidental, necessary or convenient agencies, work or improvements that may be required to carry out, facilitate, repair, maintain and complete the same.

(i) To incur indebtedness, and to issue bonds in the manner herein provided and to provide for the issuance of warrants of the district in payment of district obligations and the registration of any warrants not paid for want of funds and the rate of interest such warrants shall bear after registration and until such payment.

(j) To cause assessments to be levied and collected for the purpose of paying any obligations of the district in the manner hereinafter provided.

(k) To appoint and employ such engineers, attorneys, assistants and other employees as may be necessary and fix their compensation, including, if it deem advisable, a clerk, superintendent of work, assessor, treasurer and collector and define their powers and duties, and fix and determine the amount of bond required of each appointee and pay the premium on each such bond; which said officers and employees and each of them shall serve at the pleasure of the board.

The board shall have the power to combine any two or more offices in its discretion.

(*l*) To establish and fix the boundaries of zones in the district as provided in this act; to make transfers of money from the general funds of the district to any special fund and to create and administer such special funds as in their discretion may seem advisable, and to abolish same; to create and administer revolving funds to facilitate and assist in the carrying on and completing of such acquisitions, works, and improvements provided for herein, and to abolish same; and to do any and all things necessary or incidental to the accomplishment of the things which are permitted to be done under this act.

(m) To make and enter into contracts with the United States, the State of California, any political subdivision, county, municipality, district, agency or mandatory of the State of California or of the United States and any department, board, bureau or commission of the State of California or the United States, or any person, firm, association or corporation, jointly or severally, for the acquisition of

property or rights or the construction, maintenance and operation, or the joint financing or use in whole or in part of any or all works and improvements provided in this act, including contracts with the State of California, the United States or any other public entity (1) for loans to finance planning, acquisition, construction, operation or maintenance of such works and improvements and lands, easements, and rights-of-way therefor, and (2) for grants for recreational or fish and wildlife enhancement benefits of such works and improvements, and to do any and all things required to carry out such contracts.

An action to determine the validity of any such contract may be commenced and prosecuted under the procedure set forth in Section 21 of this act.

(n) To lease or rent to or from any of the parties named in subdivision (m) of this section any property or rights necessary, in the opinion of the board, to accomplish or carry out any of the work or improvement or the maintenance thereof herein provided and under such terms and conditions as may be agreed upon between the parties.

(o) To receive and accept any and all contributions in labor, material or money from any of the parties named in subdivision (m) of this section, to be applied to the work or improvement herein provided for.

(p) To construct, purchase, lease or otherwise acquire works and to purchase, lease, appropriate, or otherwise acquire surface waters and water rights, useful or necessary to make use of water for any purposes authorized by this act.

(q) To do any and every lawful act necessary to be done that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, and all other beneficial uses.

Water which is surplus to the needs of the lands and inhabitants within the district may be made available for beneficial use outside the district pursuant to rules and regulations prescribed under subsection (v) of this Section 3.

(r) To control flood and storm waters within the district and the flood and storm waters of streams outside of the district, which flow into the district; to conserve such waters by storage in surface reservoirs, to divert and transport such waters for beneficial uses within the district; to release such waters from surface reservoirs to replenish and augment the supply of waters in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district.

(s) To cooperate and to act in conjunction with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation,

or with the County of Yolo, in the construction of any work for the controlling of flood or storm waters of or flowing into said district, or for the protection of life or property therein, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

(t) To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, devise, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and to hold, the capital stock of any mutual water company or corporation, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions, or rights, when the ownership of such stock is necessary to secure a water supply required by the district or any part thereof, upon the condition that when holding such stock, the district shall be entitled to all the rights, powers and privileges, and shall be subject to all the obligations and liabilities conferred or imposed by law upon other holders of such stock in the same company; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by said Yolo County Flood Control and Water Conservation District; to acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water or right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch, or conduit of the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer or delivery to any such district, corporation, association, firm or individual of any water right or water pumped, stored, appropriated or otherwise acquired or secured, for the use of the Yolo County Flood Control and Water Conservation District, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement.

(u) To commence, maintain, intervene in, defend and

compromise in the name of the district, or otherwise, and to assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within or without the district, used or useful for any purpose of the district or of common benefit to any lands situated therein, or involving the wasteful use of water therein, to commence, maintain, intervene in, defend and compromise and to assume the costs and expenses of any and all actions and proceedings now or hereafter begun to prevent interference with or diminution of the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; or for the declaration or adjudication of rights in such waters; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface water used in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in or flowing into the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights which do not affect the interests of the district; provided further, that this subsection (u) shall not limit or impair in any manner whatsoever the right or rights of any landowner to commence, defend, or enter into any compromise agreement in regard to actions or proceedings respecting any water right or rights in which such landowner may have an interest.

(v) To prescribe reasonable rules and regulations and to fix and collect rates, tolls or charges for any water or service or facilities furnished, sold or leased by the district.

SEC. 30. Section 7 of the Ventura County Flood Control Act (Chapter 44 of the Statutes of 1944 (Second Extraordinary Session)) is amended to read:

Sec. 7. The objects and purposes of this act are to provide for the control of the flood and storm waters of said district and the flood and storm waters of streams that have their source outside of said district, but which streams and the flood waters thereof flow into said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining and causing to percolate into the soil within said district, or without such district, such waters, or to save or conserve in any manner all or any of such waters and protect from such flood or storm waters the watercourses, watersheds, public highways, life and property in said district, and to prevent waste of water or diminution of the water supply in, or exportation of water from said district, and to obtain, retain and reclaim drainage, storm, flood and other waters for beneficial use in said district, and to provide for the protection from erosion of beaches and shorelines within the district, and to provide for the restoration of such beaches and shorelines.

Ventura County Flood Control District is hereby declared to be a body corporate and politic and as such shall have power:

1. To have perpetual succession

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, or otherwise, and to hold, use, enjoy and to lease or dispose of real or personal property of every kind within or without the district necessary or convenient to the full exercise of its powers.

5. To acquire, by purchase, lease, construction, or otherwise, or contract to acquire, lands, right-of-way, easements, privileges and property of every kind, whether real or personal, and to construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements or property acquired by it as authorized by this act.

6. To store water in surface or underground reservoirs within or outside of the district for the common benefit of a zone or zones affected; to conserve and reclaim water for present and future use within the district; to appropriate and acquire water and water rights, and import water into the district and to conserve within or outside of the district, same for any useful purpose to the district; to commence, maintain, intervene in and compromise, in the name of the district, or otherwise, and to assume the costs and expenses of any action or proceeding involving or affecting the ownership or use of waters or water rights within the district used or useful for any purpose of the district or of common benefit to any land situated therein, or involving the wasteful use of water therein; to commence, maintain, intervene in, defend and compromise and to assume the costs and expenses of any and all actions and proceedings now or hereafter begun to prevent interference with or diminution of, or to declare rights in the natural flow of any stream or surface or subterranean supply of waters used or useful for any purpose of the district or of common benefit to the lands within the district or to its inhabitants; to prevent unlawful exportation of water from said district; to prevent contamination, pollution or otherwise rendering unfit for beneficial use the surface or subsurface water used in said district, and to commence, maintain and defend actions and proceedings to prevent any such interference with the aforesaid waters as may endanger or damage the inhabitants, lands, or use of water in the district; provided, however, that said district shall not have power to intervene or take part in, or to pay the costs or expenses of, actions or controversies between the owners of lands or water rights within the boundaries of the district and which do not involve taking water outside of or away from the district or wasteful use of water.

7. To control the flood and storm waters of said district and the

flood and storm waters of streams that have their source outside of said district, but which streams and the flood waters thereof, flow into said district, and to conserve such waters for beneficial and useful purposes within said district by spreading, storing, retaining and causing to percolate into the soil within or without said district, or to save or conserve in any manner all or any of such waters and protect from damage from such flood or storm waters the watercourses, watersheds, public highways, life and property in said district.

8. To exercise the right of eminent domain, either within or without said district, to take any property necessary to carry out any of the objects or purposes of this act. Nothing in this act contained shall be deemed to authorize said district, or any person or persons to divert the waters of any river, creek, stream, irrigation system, canal or ditch, from its channel, to the detriment of any person, or persons having any interest in such river, creek, stream, irrigation system, canal or ditch, or the waters thereof or therein, unless previous compensation be first ascertained and paid therefor, under the laws of this state authorizing the taking of private property for public uses.

9. To enter upon any land, to make surveys and locate the necessary works of improvement and the lines for channels, conduits, canals, pipelines, roadways and other rights-of-way; to acquire by purchase, lease, contract, gift, or other legal means all lands and water and water rights and other property necessary or convenient for the construction, use, supply, maintenance, repair and improvement of said works, including works constructed and being constructed by private owners, lands for reservoirs for storage of necessary water, and all necessary appurtenances, and also where necessary or convenient to said end, and for said purposes and uses, to acquire and hold the stock of corporations, domestic or foreign, owning water or water rights, canals, waterworks, franchises, concessions or rights; to enter into and do any acts necessary or proper for the performance of any agreement with the United States, or any state, county, district of any kind, public or private corporation, association, firm or individual, or any number of them, for the joint acquisition, construction, leasing, ownership, disposition, use, management, maintenance, repair or operation of any rights, works or other property of a kind which might be lawfully acquired or owned by said Ventura County Flood Control District; to acquire the right to store water in any reservoirs, or to carry water through any canal, ditch or conduit not owned or controlled by the district; to grant to any owner or lessee the right to the use of any water or right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch, or conduit of the district; to enter into and do any acts necessary or proper for the performance of any agreement with any district of any kind, public or private corporation, association, firm or individual, or any number of them for the transfer, sale or delivery to any such district,

corporation, association, firm or individual of any water right or water pumped, stored, appropriated or otherwise acquired or secured for the use of the Ventura County Flood Control District or any zone thereof, or for the purpose of exchanging the same for other water, water right or water supply in exchange for water, water right or water supply to be delivered to said district by the other party to said agreement; to cooperate with, and to act in conjunction with, the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with the Government of the United States, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, in the construction of any work for the controlling of flood or storm waters of said district, or for the protection of life or property therein, or for the purpose of conserving said waters for beneficial use within said district, or in any other works, acts, or purposes provided for herein, and to adopt and carry out any definite plan or system of work for any such purpose.

10. To carry on technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, water rights, control of floods and use of water, both within and without said district, and for this purpose said district shall have the right of access through its authorized representative to all properties within said district.

11. To incur indebtedness and to issue bonds in the manner herein provided.

12. To cause taxes and assessments to be levied and collected for the purpose of paying any obligation of the district, and to carry out any of the purposes of this act, in the manner hereinafter provided.

13. To make contracts, and to employ labor, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

14. To cooperate and to act in conjunction with, or to contribute funds to, the United States or the state for the purposes of protecting beaches or shorelines within the district, or restoring such beaches or shorelines.

15. To carry on technical investigations pertaining to ocean currents, tides, erosion, soundings, and beach surveys.

SEC. 31. Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) is amended to read:

Sec. 2. The objects and purposes of this act are to provide for the control and conservation of the flood, storm and other waste waters of said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within said district, or to save or conserve in any manner, all or any of such waters, and to protect from damage from such flood or storm waters, the harbors, waterways, public highways and property in said district

Said Los Angeles County Flood Control District is hereby declared to be a body corporate and politic, and as such shall have power:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real or personal property of every kind within or without the district necessary to the full exercise of its power.

5. To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as herein authorized. Construction or improvement of existing facilities may involve landscaping and other aesthetic treatment in order that the facility will be compatible with existing or planned development in the area of improvement.

6. To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

7. To incur indebtedness, and to issue bonds in the manner herein provided.

7a. In addition to the powers given in the next preceding subsection, to borrow money from the United States of America, any agency or department thereof, or from any nonprofit corporation, organized under the laws of this state, to which the Reconstruction Finance Corporation, a corporation organized and existing under and by virtue of an act of Congress, entitled "Reconstruction Finance Corporation Act," or other agency, or department, of the United States government, has authorized, or shall hereafter authorize, a loan to enable such nonprofit corporation to lend money to said Los Angeles County Flood Control District, for any flood control work authorized under this act, and to repay the same, in annual installments, over a period of not to exceed twenty (20) years, with interest at a rate of not to exceed four and one-fourth per centum (4¼%) per annum, payable semiannually, and, without the necessity of an election when authorized by resolution of the board of supervisors, as evidences of such indebtedness, said district is hereby authorized to execute and deliver a note, or a series of notes, or bonds, or other evidences of indebtedness, signed by the chairman of the board of supervisors of said district, which notes, bonds, or other evidences of indebtedness, shall be negotiable instruments if so declared in said resolution of the board of supervisors providing for their issuance, and said notes, bonds, or other evidences of indebtedness, may have interest coupons attached to evidence interest payments, signed by the facsimile signature of said chairman of said board. All applications for such loans shall specify the particular flood control work or projects for which the funds will be

expended, and when received, the money shall be deposited in a special fund, and shall be expended for those purposes only which are described and referred to in the applications. If a surplus remains after the completion of said work, such surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness, executed as aforesaid, for the loan including interest coupons. The board of supervisors shall annually, levy a tax upon the taxable real property of said district, clearly sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure the prompt payment thereof, as may be provided by said resolution of the board of supervisors; provided, however, that the amount of taxes levied in any year, pursuant to the provisions of this subsection, shall, pro tanto, reduce the authority of the board of supervisors, during any such year, to levy taxes under Section 14 of this act, but this proviso shall not be a limitation upon the power and duty to levy and collect taxes under this subsection

Notwithstanding anything in this subsection 7a to the contrary, the total amount which said district may borrow under the authority of any or all of the provisions of this subsection is limited to and shall not exceed in the aggregate the sum of four million five hundred thousand dollars ($4,500,000).

7b. The power granted in the next preceding subsection is hereby extended to authorize the issuance and sale of bonds or other evidences of indebtedness of said district to the County of Los Angeles and the purchase thereof by said county in accordance with "An act authorizing the investment and reinvestment and disposition of any surplus moneys in the treasury of any county, city and county, incorporated city or town or municipal utility district or flood control district," approved April 23, 1913, as amended; all subject to the provisions and limitations of the next preceding subsection relative to the disposition and use of funds, interest rate, period of repayment, tax rate and mode of issuance. The total amount of bonds or other evidence of indebtedness, in the aggregate, which the district may issue and sell under the authority of subsection 7a and of this subsection is limited to and shall not exeed four million five hundred thousand dollars ($4,500,000).

8. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner hereinafter provided.

9. To make contracts, and to employ for temporary services only, expert appraisers, consultants and technical advisers, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

10. To grant or otherwise convey to counties, cities and counties, cities or towns easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by said Los Angeles County Flood Control District.

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dislodged, transported, conveyed or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of said district or elsewhere.

12. To pay premiums on bonds of contractors required under any contract wherein the amount payable to the contractor exceeds five million dollars ($5,000,000); provided, that the specifications in such cases shall specifically so provide and state that the bidder shall not include in his bids the cost of furnishing the required bonds.

13. To lease, sell or dispose of any property (or any interest therein) whenever in the judgment of said board of supervisors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased for any purpose without interfering with the use of the same for the purposes of said district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act; provided, however, that nothing herein shall authorize the board of supervisors or other governing body of the district or any officer thereof to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity or any interest or space therein except to public agencies for recreational purposes when such use is not inconsistent with the use thereof by the district for flood control and water conservation purposes; or except as hereinafter provided by Section 17 of this act; provided, however, that said district may grant and convey to the United States of America, or to any federal agency authorized to accept and pay for such land or interests in land, all lands and interests in land, now owned or hereafter acquired, lying within any channel, dam or reservoir site, improved or constructed, in whole or in part, with federal funds, upon payment to the district of sums equivalent to actual expenditures made by it in acquiring the lands and interests in land so conveyed and deemed reasonable by the Secretary of War and the Chief of Engineers.

14. To provide, by agreement with other public agencies or private persons or entities or otherwise, for the recreational use of the lands, facilities, and works of such district which shall not interfere, or be inconsistent, with the primary use and purpose of such lands, facilities, and works by such district.

15. In addition to its other powers, the district shall have the power to preserve, enhance, and add recreational features to its properties and upon a finding by the board of supervisors that the acquisition is necessary for such purposes, to acquire, preserve, enhance, and add recreational features to lands or interests in lands contiguous to its properties, for the protection, preservation, and use of the scenic beauty and natural environment for such properties or such lands and to collect admission or use fees for such recreational features where deemed appropriate.

The said district by or through its board of supervisors, or other

board or officers at any time succeeding to the duties or functions of its board of supervisors, is hereby authorized and empowered to warrant and defend the title to all land and interests therein so conveyed to the United States of America or to any such agency and their respective assigns; to covenant and agree to indemnify and keep indemnified and to hold and save harmless and exonerated the United States of America or any such agency, to which such lands or any interest therein are so conveyed by said district, from and against all demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any defect or defects whatsoever in the title to any such land or interest in land so conveyed by said district; to reimburse and save harmless and exonerated the United States of America or any such agency for any and all amounts, paid, and expenses incurred, in the compromise or settlement of any demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any claim to or defect or defects whatsoever in the title to any such land or interests in land so conveyed by said district; to pay all just compensation, costs and expenses, which may be incurred in any condemnation proceeding deemed necessary by the United States of America or such agency, in order to perfect title to any such land or interests in land, including without limitation all attorneys' fees, court costs and fees, costs of abstracts and other evidences of title, and all other costs, expenses or damages incurred or suffered by the United States of America or such agency; and consent is hereby given to the bringing of suit or other legal proceedings against said district by the United States of America or such agency, as the case may be, in the proper district court of the United States, upon any cause of action arising out of any conveyance, contract or covenant made or entered into by said district pursuant to the authority granted in this act, or to enforce any claims, damages, loss or expenses arising out of or resulting from any defect whatsoever in the title to such land or any interest therein or any claims of others in or to such land or interest therein.

SEC. 32. Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) is amended to read:

Sec. 2. The objects and purposes of this act are to provide for the control and conservation of the flood, storm and other waste waters of said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within said district, or to save or conserve in any manner, all or any of such waters, and to protect from damage from such flood or storm waters, the harbors, waterways, public highways and property in said district.

Said Los Angeles County Flood Control District is hereby declared to be a body corporate and politic, and as such shall have power:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real or personal property of every kind within or without the district necessary to the full exercise of its power.

5. To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as herein authorized. Construction or improvement of existing facilities may involve landscaping and other aesthetic treatment in order that the facility will be compatible with existing or planned development in the area of improvement.

6. To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

7. To incur indebtedness, and to issue bonds in the manner herein provided.

7a. In addition to the powers given in the next preceding subsection, to borrow money from the United States of America, any agency or department thereof, or from any nonprofit corporation, organized under the laws of this state, to which the Reconstruction Finance Corporation, a corporation organized and existing under and by virtue of an act of Congress, entitled "Reconstruction Finance Corporation Act," or other agency, or department, of the United States government, has authorized, or shall hereafter authorize, a loan to enable such nonprofit corporation to lend money to said Los Angeles County Flood Control District, for any flood control work authorized under this act, and to repay the same, in annual installments, over a period of not to exceed twenty (20) years, with interest at a rate of not to exceed four and one-fourth per centum (4¼%) per annum, payable semiannually, and, without the necessity of an election when authorized by resolution of the board of supervisors, as evidences of such indebtedness, said district is hereby authorized to execute and deliver a note, or a series of notes, or bonds, or other evidences of indebtedness, signed by the chairman of the board of supervisors of said district, which notes, bonds, or other evidences of indebtedness, shall be negotiable instruments if so declared in said resolution of the board of supervisors providing for their issuance, and said notes, bonds, or other evidences of indebtedness, may have interest coupons attached to evidence interest payments, signed by the facsimile signature of said chairman of said board. All applications for such loans shall specify the particular flood control work or projects for which the funds will be expended, and when received, the money shall be deposited in a

special fund, and shall be expended for those purposes only which are described and referred to in the applications. If a surplus remains after the completion of said work, such surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness, executed as aforesaid, for the loan including interest coupons. The board of supervisors shall annually, levy a tax upon the taxable real property of said district, clearly sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure the prompt payment thereof, as may be provided by said resolution of the board of supervisors; provided, however, that the amount of taxes levied in any year, pursuant to the provisions of this subsection, shall, pro tanto, reduce the authority of the board of supervisors, during any such year, to levy taxes under Section 14 of this act, but this proviso shall not be a limitation upon the power and duty to levy and collect taxes under this subsection. Notwithstanding any other provisions of law, interest earned on funds representing the proceeds of bonds of the district shall be deposited and retained in the reserve fund of the district to meet the principal and interest falling due on such bonds.

Notwithstanding anything in this subsection 7a to the contrary, the total amount which said district may borrow under the authority of any or all of the provisions of this subsection is limited to and shall not exceed in the aggregate the sum of four million five hundred thousand dollars ($4,500,000).

7b. The power granted in the next preceding subsection is hereby extended to authorize the issuance and sale of bonds or other evidences of indebtedness of said district to the County of Los Angeles and the purchase thereof by said county in accordance with "An act authorizing the investment and reinvestment and disposition of any surplus moneys in the treasury of any county, city and county, incorporated city or town or municipal utility district or flood control district," approved April 23, 1913, as amended; all subject to the provisions and limitations of the next preceding subsection relative to the disposition and use of funds, interest rate, period of repayment, tax rate and mode of issuance. The total amount of bonds or other evidence of indebtedness, in the aggregate, which the district may issue and sell under the authority of subsection 7a and of this subsection is limited to and shall not exceed four million five hundred thousand dollars ($4,500,000).

8. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner hereinafter provided.

9. To make contracts, and to employ for temporary services only, expert appraisers, consultants and technical advisers, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

10. To grant or otherwise convey to counties, cities and counties,

cities or towns easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by said Los Angeles County Flood Control District.

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dislodged, transported, conveyed or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of said district or elsewhere.

12. To pay premiums on bonds of contractors required under any contract wherein the amount payable to the contractor exceeds five million dollars ($5,000,000); provided, that the specifications in such cases shall specifically so provide and state that the bidder shall not include in his bids the cost of furnishing the required bonds.

13. To lease, sell or dispose of any property (or any interest therein) whenever in the judgment of said board of supervisors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased for any purpose without interfering with the use of the same for the purposes of said district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act; provided, however, that nothing herein shall authorize the board of supervisors or other governing body of the district or any officer thereof to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity or any interest or space therein except to public agencies for recreational purposes when such use is not inconsistent with the use thereof by the district for flood control and water conservation purposes; or except as hereinafter provided by Section 17 of this act; provided, however, that said district may grant and convey to the United States of America, or to any federal agency authorized to accept and pay for such land or interests in land, all lands and interests in land, now owned or hereafter acquired, lying within any channel, dam or reservoir site, improved or constructed, in whole or in part, with federal funds, upon payment to the district of sums equivalent to actual expenditures made by it in acquiring the lands and interests in land so conveyed and deemed reasonable by the Secretary of War and the Chief of Engineers.

14. To provide, by agreement with other public agencies or private persons or entities or otherwise, for the recreational use of the lands, facilities, and works of such district which shall not interfere, or be inconsistent, with the primary use and purpose of such lands, facilities, and works by such district.

15. In addition to its other powers, the district shall have the power to preserve and enhance its properties and, upon a finding by the board of supervisors that the acquisition is necessary for such purposes, to acquire, preserve, and enhance lands or interests in lands contiguous to its properties, for the protection and preservation of the scenic beauty and natural environment for such properties or such lands.

The said district by or through its board of supervisors, or other board or officers at any time succeeding to the duties or functions of its board of supervisors, is hereby authorized and empowered to warrant and defend the title to all land and interests therein so conveyed to the United States of America or to any such agency and their respective assigns; to covenant and agree to indemnify and keep indemnified and to hold and save harmless and exonerated the United States of America or any such agency, to which such lands or any interest therein are so conveyed by said district, from and against all demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any defect or defects whatsoever in the title to any such land or interest in land so conveyed by said district; to reimburse and save harmless and exonerated the United States of America or any such agency for any and all amounts, paid, and expenses incurred, in the compromise or settlement of any demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any claim to or defect or defects whatsoever in the title to any such land or interests in land so conveyed by said district; to pay all just compensation, costs and expenses, which may be incurred in any condemnation proceeding deemed necessary by the United States of America or such agency, in order to perfect title to any such land or interests in land, including without limitation all attorneys' fees, court costs and fees, costs of abstracts and other evidences of title, and all other costs, expenses or damages incurred or suffered by the United States of America or such agency; and consent is hereby given to the bringing of suit or other legal proceedings against said district by the United States of America or such agency, as the case may be, in the proper district court of the United States, upon any cause of action arising out of any conveyance, contract or covenant made or entered into by said district pursuant to the authority granted in this act, or to enforce any claims, damages, loss or expenses arising out of or resulting from any defect whatsoever in the title to such land or any interest therein or any claims of others in or to such land or interest therein.

SEC. 33. Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915) is amended to read:

Sec. 2. The objects and purposes of this act are to provide for the control and conservation of the flood, storm and other waste waters of said district, and to conserve such waters for beneficial and useful purposes by spreading, storing, retaining or causing to percolate into the soil within said district, or to save or conserve in any manner, all or any of such waters, and to protect from damage from such flood or storm waters, the harbors, waterways, public highways and property in said district.

Said Los Angeles County Flood Control District is hereby declared to be a body corporate and politic, and as such shall have power:

1. To have perpetual succession.

2. To sue and be sued in the name of said district in all actions and proceedings in all courts and tribunals of competent jurisdiction.

3. To adopt a seal and alter it at pleasure.

4. To take by grant, purchase, gift, devise or lease, hold, use, enjoy, and to lease or dispose of real or personal property of every kind within or without the district necessary to the full exercise of its power.

5. To acquire or contract to acquire lands, rights-of-way, easements, privileges and property of every kind, and construct, maintain and operate any and all works or improvements within or without the district necessary or proper to carry out any of the objects or purposes of this act, and to complete, extend, add to, repair or otherwise improve any works or improvements acquired by it as herein authorized. Construction or improvement of existing facilities may involve landscaping and other aesthetic treatment in order that the facility will be compatible with existing or planned development in the area of improvement.

6. To exercise the right of eminent domain, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

7. To incur indebtedness, and to issue bonds in the manner herein provided.

7a. In addition to the powers given in the next preceding subsection, to borrow money from the United States of America, any agency or department thereof, or from any nonprofit corporation, organized under the laws of this state, to which the Reconstruction Finance Corporation, a corporation organized and existing under and by virtue of an act of Congress, entitled "Reconstruction Finance Corporation Act," or other agency, or department, of the United States government, has authorized, or shall hereafter authorize, a loan to enable such nonprofit corporation to lend money to said Los Angeles County Flood Control District, for any flood control work authorized under this act, and to repay the same, in annual installments, over a period of not to exceed twenty (20) years, with interest at a rate of not to exceed four and one-fourth per centum (4¼%) per annum, payable semiannually, and, without the necessity of an election when authorized by resolution of the board of supervisors, as evidences of such indebtedness, said district is hereby authorized to execute and deliver a note, or a series of notes, or bonds, or other evidences of indebtedness, signed by the chairman of the board of supervisors of said district, which notes, bonds, or other evidences of indebtedness, shall be negotiable instruments if so declared in said resolution of the board of supervisors providing for their issuance, and said notes, bonds, or other evidences of indebtedness, may have interest coupons attached to evidence interest payments, signed by the facsimile signature of said chairman of said board. All applications for such loans shall specify the particular flood control work or projects for which the funds will be

expended, and when received, the money shall be deposited in a special fund, and shall be expended for those purposes only which are described and referred to in the applications. If a surplus remains after the completion of said work, such surplus shall be applied to the payment of the note, notes, bonds, or other evidences of indebtedness, executed as aforesaid, for the loan including interest coupons. The board of supervisors shall annually, levy a tax upon the taxable real property of said district, clearly sufficient to pay the interest and installments of principal, as the same shall become due and payable, under any loan made pursuant to the authority of this section, and to create and maintain a reserve fund to assure the prompt payment thereof, as may be provided by said resolution of the board of supervisors; provided, however, that the amount of taxes levied in any year, pursuant to the provisions of this subsection, shall, pro tanto, reduce the authority of the board of supervisors, during any such year, to levy taxes under Section 14 of this act, but this proviso shall not be a limitation upon the power and duty to levy and collect taxes under this subsection. Notwithstanding any other provisions of law, interest earned on funds representing the proceeds of bonds of the district shall be deposited and retained in the reserve fund of the district to meet the principal and interest falling due on such bonds.

Notwithstanding anything in this subsection 7a to the contrary, the total amount which said district may borrow under the authority of any or all of the provisions of this subsection is limited to and shall not exceed in the aggregate the sum of four million five hundred thousand dollars ($4,500,000).

7b. The power granted in the next preceding subsection is hereby extended to authorize the issuance and sale of bonds or other evidences of indebtedness of said district to the County of Los Angeles and the purchase thereof by said county in accordance with "An act authorizing the investment and reinvestment and disposition of any surplus moneys in the treasury of any county, city and county, incorporated city or town or municipal utility district or flood control district," approved April 23, 1913, as amended; all subject to the provisions and limitations of the next preceding subsection relative to the disposition and use of funds, interest rate, period of repayment, tax rate and mode of issuance. The total amount of bonds or other evidence of indebtedness, in the aggregate, which the district may issue and sell under the authority of subsection 7a and of this subsection is limited to and shall not exceed four million five hundred thousand dollars ($4,500,000).

8. To cause taxes to be levied and collected for the purpose of paying any obligation of the district in the manner hereinafter provided.

9. To make contracts, and to employ for temporary services only, expert appraisers, consultants and technical advisers, and to do all acts necessary for the full exercise of all powers vested in said district, or any of the officers thereof, by this act.

10. To grant or otherwise convey to counties, cities and counties, cities or towns easements for street and highway purposes, over, along, upon, in, through, across or under any real property owned by said Los Angeles County Flood Control District.

11. To remove, carry away and dispose of any rubbish, trash, debris or other inconvenient matter that may be dislodged, transported, conveyed or carried by means of, through, in, or along the works and structures operated or maintained hereunder and deposited upon the property of said district or elsewhere.

12. To pay premiums on bonds of contractors required under any contract wherein the amount payable to the contractor exceeds five million dollars ($5,000,000); provided, that the specifications in such cases shall specifically so provide and state that the bidder shall not include in his bids the cost of furnishing the required bonds.

13. To lease, sell or dispose of any property (or any interest therein) whenever in the judgment of said board of supervisors said property, or any interest therein or part thereof, is no longer required for the purposes of said district, or may be leased for any purpose without interfering with the use of the same for the purposes of said district, and to pay any compensation received therefor into the general fund of said district and use the same for the purposes of this act, provided, however, that nothing herein shall authorize the board of supervisors or other governing body of the district or any officer thereof to sell, lease or otherwise dispose of any water, water right, reservoir space or storage capacity or any interest or space therein except to public agencies for recreational purposes when such use is not inconsistent with the use thereof by the district for flood control and water conservation purposes; or except as hereinafter provided by Section 17 of this act; provided, however, that said district may grant and convey to the United States of America, or to any federal agency authorized to accept and pay for such land or interests in land, all lands and interests in land, now owned or hereafter acquired, lying within any channel, dam or reservoir site, improved or constructed, in whole or in part, with federal funds, upon payment to the district of sums equivalent to actual expenditures made by it in acquiring the lands and interests in land so conveyed and deemed reasonable by the Secretary of War and the Chief of Engineers.

14. To provide, by agreement with other public agencies or private persons or entities or otherwise, for the recreational use of the lands, facilities, and works of such district which shall not interfere, or be inconsistent, with the primary use and purpose of such lands, facilities, and works by such district.

15. In addition to its other powers, the district shall have the power to preserve, enhance, and add recreational features to its properties and upon a finding by the board of supervisors that the acquisition is necessary for such purposes, to acquire, preserve, enhance, and add recreational features to lands or interests in lands contiguous to its properties, for the protection, preservation, and use of the scenic

beauty and natural environment for such properties or such lands and to collect admission or use fees for such recreational features where deemed appropriate.

The said district by or through its board of supervisors, or other board or officers at any time succeeding to the duties or functions of its board of supervisors, is hereby authorized and empowered to warrant and defend the title to all land and interests therein so conveyed to the United States of America or to any such agency and their respective assigns; to covenant and agree to indemnify and keep indemnified and to hold and save harmless and exonerated the United States of America or any such agency, to which such lands or any interest therein are so conveyed by said district, from and against all demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any defect or defects whatsoever in the title to any such land or interest in land so conveyed by said district; to reimburse and save harmless and exonerated the United States of America or any such agency for any and all amounts, paid, and expenses incurred, in the compromise or settlement of any demands, claims, liabilities, liens, actions, suits, charges, costs, loss, damages, expenses and attorneys' fees of whatsoever kind or nature, resulting from, arising out of or occasioned by any claim to or defect or defects whatsoever in the title to any such land or interests in land so conveyed by said district; to pay all just compensation, costs and expenses, which may be incurred in any condemnation proceeding deemed necessary by the United States of America or such agency, in order to perfect title to any such land or interests in land, including without limitation all attorneys' fees, court costs and fees, costs of abstracts and other evidences of title, and all other costs, expenses or damages incurred or suffered by the United States of America or such agency; and consent is hereby given to the bringing of suit or other legal proceedings against said district by the United States of America or such agency, as the case may be, in the proper district court of the United States, upon any cause of action arising out of any conveyance, contract or covenant made or entered into by said district pursuant to the authority granted in this act, or to enforce any claims, damages, loss or expenses arising out of or resulting from any defect whatsoever in the title to such land or any interest therein or any claims of others in or to such land or interest therein.

SEC. 34. It is the intent of the Legislature, if this bill and Senate Bill No. 530 are both chaptered and become effective January 1, 1976, both bills amend Section 7 of the Ventura County Flood Control Act (Chapter 44 of the Statutes of 1944 (Second Extraordinary Session)), and this bill is chaptered after Senate Bill No. 530, that Section 7 of the Ventura County Flood Control Act, as amended by Section 1 of Senate Bill No. 530 be further amended on the operative date of this act in the form set forth in Section 30 of this act to incorporate the changes in Section 7 of the Ventura County Flood Control Act

proposed by this bill. Therefore, Section 30 of this act shall become operative only if this bill and Senate Bill No. 530 are both chaptered and become effective January 1, 1976, both bills amend Section 7 of the Ventura County Flood Control Act, and this bill is chaptered after Senate Bill No. 530, in which case Section 30 of this act shall become operative on the operative date of this act and Section 28 of this act shall not become operative.

SEC. 35. It is the intent of the Legislature that if this bill and Senate Bill No. 920 or Senate Bill No. 921, or both, are chaptered and become effective January 1, 1976, each of the bills amend Section 2 of the Los Angeles County Flood Control Act (Chapter 755 of the Statutes of 1915), and this bill is chaptered last, that amendments proposed by each of the bills which are chaptered be given effect as follows:

(1) If this bill and Senate Bill No. 920 are both chaptered and become effective January 1, 1976, both bills amend Section 2 of the Los Angeles County Flood Control Act, but Senate Bill No. 921 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 920, that Section 2 of the Los Angeles County Flood Control Act, as amended by Section 1 of Senate Bill No. 920 be further amended on the operative date of this act in the form set forth in Section 31 of this act to incorporate the changes in Section 2 of the Los Angeles County Flood Control Act proposed by this bill. Therefore, Section 31 of this act shall become operative only if this bill and Senate Bill No. 920 are both chaptered and become effective January 1, 1976, both bills amend Section 2 of the Los Angeles County Flood Control Act, this bill is chaptered after Senate Bill No. 920, and Senate Bill No. 921 is not chaptered or as chaptered does not amend that section, in which case Section 31 of this act shall become operative on the operative date of this act and Sections 5, 32, and 33 of this act shall not become operative.

(2) If this bill and Senate Bill No. 921 are both chaptered and become effective January 1, 1976, both bills amend Section 2 of the Los Angeles County Flood Control Act, but Senate Bill No. 920 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill No. 921, that Section 2 of the Los Angeles County Flood Control Act, as amended by Section 1 of Senate Bill No. 921 be further amended on the operative date of this act in the form set forth in Section 32 of this act to incorporate the changes in Section 2 of the Los Angeles County Flood Control Act proposed by this bill. Therefore, Section 32 of this act shall become operative only if this bill and Senate Bill No. 921 are both chaptered and become effective January 1, 1976, both bills amend Section 2 of the Los Angeles County Flood Control Act, this bill is chaptered after Senate Bill No. 921, and Senate Bill No. 920 is not chaptered or as chaptered does not amend that section, in which case Section 32 of this act shall become operative on the operative date of this act and Sections 5, 31, and 33 of this act shall not become operative.

(3) If this bill and Senate Bill No. 920 and Senate Bill No. 921 are

all chaptered and become effective January 1, 1976, all three bills amend Section 2 of the Los Angeles County Flood Control Act, and this bill is chaptered after Senate Bill No. 920 and Senate Bill No. 921, that Section 2 of the Los Angeles County Flood Control Act, as amended by Section 1 of Senate Bill No. 920 and Section 1 of Senate Bill No. 921 be further amended on the operative date of this act in the form set forth in Section 33 of this act to incorporate the changes in Section 2 of the Los Angeles County Flood Control Act proposed by this bill. Therefore, Section 33 of this act shall become operative only if this bill and Senate Bill No. 920 and Senate Bill No. 921 are all chaptered and become effective January 1, 1976, all three bills amend Section 2 of the Los Angeles County Flood Control Act, and this bill is chaptered after Senate Bill No. 920 and Senate Bill No. 921, in which case Section 33 of this act shall become operative on the operative date of this act and Sections 5, 31, and 32 of this act shall not become operative.

SEC. 36. This act shall become operative only if Assembly Bill No. 11 is chaptered and becomes effective January 1, 1976, and, in such case, shall become operative at the same time as Assembly Bill No. 11.

CHAPTER 1277

An act to amend Sections 10702, 11872, 11921, 11922, 11923, 11925, 11927, and 16710 of, and to add Sections 11921.5, 17314, and 17315 to, and to add Article 9 (commencing with Section 11930) to Chapter 4 of Division 9 of, and Article 4.2 (commencing with Section 17459) to Chapter 2, Division 14 of, and to repeal Section 11926 of, the Education Code, relating to child nutrition, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 1, 1975 Filed with Secretary of State October 1, 1975]

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

SECTION 1. The Legislature recognizes the continuing obligation of school districts and county superintendents of schools to provide for the health and educational needs of students by making available to all students at least one nutritionally adequate meal each schoolday and by providing a meaningful, related program of nutrition education as stated in Section 11921 of the Education Code.

The Legislature further recognizes the need to establish a plan for permanent funding to provide qualifying local agencies with continuous, financial support for the operation of school nutrition programs.

SEC. 2. Section 10702 of the Education Code is amended to read:

10702. The governing board of any school district may authorize any organization composed entirely of pupils attending the schools of the district to maintain such activities as may be approved by the governing board. The governing board of any school district may authorize student organizations to sell food on school premises, subject to policy and regulations of the State Board of Education. The State Board of Education shall develop policy and regulations for the sale of food by student organizations in kindergarten and grades 1 through 12 which shall insure optimum participation in the school district's nonprofit food service programs and shall be in consideration of all programs approved by the governing board of any school district. Such policy and regulations shall be effective January 1, 1976.

Nothing in this section shall be construed as exempting from the California Restaurant Act, food sales which are authorized pursuant to this section and which would otherwise be subject to the California Restaurant Act.

This section shall not apply to community college districts.

SEC. 3. Section 11872 of the Education Code is amended to read:

11872. (a) For the purpose of providing funds with which to obtain school meals for needy pupils and to provide facilities and equipment for providing school meals to needy pupils, the governing board of any school district may levy and collect a district tax over and above the maximum elsewhere specified in this code but not to exceed five cents ($0.05). Not more than 6 percent of such funds may be used for the administrative and clerical costs of conducting such a program.

SEC. 4. Section 11921 of the Education Code is amended to read:

11921. (a) The Legislature finds that (1) the proper nutrition of children is a matter of highest state priority, and (2) there is a demonstrated relationship between the intake of food and good nutrition and the capacity of children to develop and learn, and (3) the teaching of the principles of good nutrition in schools is urgently needed to assist children at all income levels in developing the proper eating habits essential for lifelong good health and productivity.

(b) It is the policy of the State of California that no child shall go hungry at school or a child development program and that schools and child development programs conducted pursuant to Division 12.5 (commencing with Section 16700) have an obligation to provide for the nutritional needs and nutrition education of all pupils during the schoolday and all children receiving child development services.

SEC. 5. Section 11921.5 is added to the Education Code, to read:

11921.5. As used in this article, "child nutrition entity" means any school district, county superintendent of schools, child development program operated pursuant to Division 12.5 (commencing with Section 16700), local agency, private school, or parochial school, which qualifies for federal aid under the federal school lunch

program or the federal child nutrition program prescribed, respectively, by Chapter 13 (commencing with Section 1751) and Chapter 13A (commencing with Section 1771) of Title 42 of the United States Code.

SEC. 6. Section 11922 of the Education Code is amended to read:

11922. Any child nutrition entity may apply to the Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils each schoolday at each school in such districts or maintained by such county superintendents of schools, or at such private schools and parochial schools and to children receiving child development services. The State Board of Education shall adopt rules and regulations for the operation of lunch and breakfast programs in school districts. A child nutrition entity which receives state funds pursuant to this article, shall provide breakfasts and lunches in accordance with state and federal guidelines.

For purposes of this article, a nutritionally adequate breakfast or lunch is a breakfast or lunch which meets one-third of the daily dietary allowance as established by the National Research Council. Where both breakfast and lunch are provided, they shall, together, provide at least one-half to two-thirds of this recommended daily dietary allowance.

SEC. 7. Section 11923 of the Education Code is amended to read:

11923. Any child nutrition entity which has inadequate or no food preparation facilities as determined by the Department of Education, and is, therefore, unable to provide a nutritionally adequate breakfast or lunch, or both, may contract with other school districts, county superintendents of schools, public agencies, or nonprofit private agencies for the preparation and delivery of such meals.

SEC. 8. Section 11925 of the Education Code is amended to read:

11925. (a) The Department of Education shall formulate the basic elements of nutrition education programs for child nutrition entities participating in programs established under this article. Such programs shall coordinate classroom instruction with the food service program and shall be of sufficient variety and flexibility to meet the needs of pupils in the total spectrum of education, including early childhood, elementary and secondary schools, special education classes and programs and child development programs.

(b) Nutrition education programs shall be maintained on a project approval basis. The State Board of Education shall establish rules and regulations for nutrition education projects. Such projects shall be approved by the State Board of Education upon recommendation of the Department of Education. County offices of education may apply for and receive funds on behalf of school districts under their jurisdiction in order to implement projects.

Projects may include, but need not be limited to, innovative ways to coordinate the school meal service program with the nutrition education program; development of community resources for

purposes of nutrition education; instructional programs for teachers, parents, food service employees; and training and utilization of paraprofessionals to assist the instructional staff.

SEC. 8.5. Section 11926 of the Education Code is repealed.

SEC. 9. Section 11927 of the Education Code is amended to read:

11927. Funds allocated pursuant to subdivision (a) of Section 17459 to child nutrition entities for school and child care and development program meals pursuant to this article shall be disbursed on the basis of five cents ($0.05) for each breakfast and five cents ($0.05) for each lunch served.

The Department of Education shall, prior to July 1 of each year, prescribe an adjustment in the state meal contribution rates established pursuant to this section for the forthcoming fiscal year. Such adjustments shall reflect the changes in the cost of operating a school breakfast and lunch program and shall be made commencing on July 1 of each year. Such adjustment shall be the average of the separate indices of the "Food Away From Home Index" for Los Angeles and San Francisco as prepared by the United States Bureau of Labor Statistics.

In giving effect to the cost-of-living provisions of this section, the Department of Education shall use the same month for computation of the percentage change in the cost of living after July 1, 1975. The same month shall be used annually thereafter. The product of any percentage increase or decrease in the average index and the per meal reimbursement disbursement rate shall be adjusted by the amount of any cost-of-living change currently in effect pursuant to the provisions of this section.

SEC. 10. Article 9 (commencing with Section 11930) is added to Chapter 4 of Division 9 of the Education Code, to read:

Article 9. Mandatory School District and County Superintendent of Schools Meals for Needy Pupils in Kindergarten and Grades 1 to 12

11930. Notwithstanding any other provision of law, each school district and county superintendent of schools maintaining any kindergarten or any of grades 1 to 12 shall, commencing on July 1, 1977, provide for each needy pupil enrolled therein, one nutritionally adequate free or reduced-price meal during each schoolday.

11931. The State Board of Education shall adopt regulations prescribing standards and guidelines for carrying out the purposes of this article.

11932. For the purposes of this article, the State Board of Education shall adopt regulations defining needy children within the permissible limitations prescribed by the relevant federal statutes and regulations.

11933 For the purposes of this article, a nutritionally adequate breakfast or lunch is one which meets one-third of the daily allowance as established by the National Research Council. Where

both breakfast and lunch are provided, they shall, together, provide at least one-half to two-thirds of this recommended daily dietary allowance.

11934. Any school district or county superintendent of schools which has inadequate or no food preparation facilities as determined by the Department of Education, and is, therefore, unable to provide a nutritionally adequate breakfast or lunch, or both, may contract with other school districts, county superintendents of schools, public agencies, or nonprofit private agencies for the preparation and delivery of such meals.

11935. A school district or county superintendent of schools which is not providing each enrolled needy pupil with a least one nutritionally adequate free or reduced-price meal during each schoolday, shall submit to the Superintendent of Public Instruction no later than July 1, 1976, a plan of operation for implementation of Section 11930.

11936. The Superintendent of Public Instruction shall supervise the implementation of this article and shall investigate acts of alleged noncompliance. In the event the Superintendent of Public Instruction finds that a school district or county superintendent of schools has failed to comply with the provisions of this article, the Superintendent of Public Instruction shall certify such noncompliance to the Attorney General. The Attorney General shall conduct such investigations as may be necessary to document the noncompliance. The Attorney General shall seek injunctive relief to secure compliance with this article, when such action is requested by the Superintendent of Public Instruction.

SEC. 11. Section 16710 of the Education Code is amended to read:

16710. Child development services means child care provided for any part of a workday by public or private agencies and may include, but is not limited to, the following:

(a) Developmental activities for prekindergarten children which are not a part of the formal school program but which will prepare them for effective matriculation into the formal school programs within the community and shall include, but not be limited to, practical life, sensorimotor, perceptual discrimination, language development and symbol-formation activities.

(b) Full- or part-day supervision, developmental activities and instruction for children 14 years of age or younger in a program approved pursuant to this division.

(c) Full- or part-day supervision and developmental activities for children five years of age or younger in a program approved pursuant to this division.

(d) Full- or part-day supervision, developmental activities and instruction of children 14 years of age or younger, for less than 24 hours a day, in a home licensed pursuant to Section 1310 of the Health and Safety Code.

(e) Instruction in children's developmental activities for parents

with prekindergarten children.

(f) Social services as necessary to insure parent-child adjustments to out-of-home-care situations, child development referral services, child placement counseling and other support services when the parent is employed, in training, or physically or mentally incapacitated.

(g) Health screening and health treatment to the extent provided by the Medi-Cal Act (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code).

(h) Nutrition services to provide a balanced diet to needy children enrolled and instruction of food buying and preparation to the parents of children within the child development program.

(i) Night shift or late-hour supervision and developmental activities for children 14 years of age or younger in a program approved pursuant to this division.

(j) A nutritionally adequate breakfast or a nutritionally adequate lunch, or both.

For purposes of this article, a nutritionally adequate breakfast or lunch is a breakfast or lunch which meets one-third of the daily dietary allowance as established by the National Research Council. Where both breakfast and lunch are provided, they shall, together, provide one-half to two-thirds of this recommended daily dietary allowance.

SEC. 13. Section 17314 is added to the Education Code, to read:

17314. There is hereby created in the State Treasury the State Child Nutrition Fund which is continuously appropriated to the State Department of Education without regard to fiscal years to carry out the purposes of Article 8 (commencing with Section 11921) of Chapter 4 of Division 9 and of Article 4.2 (commencing with Section 17459) of this chapter.

The State Child Nutrition Fund shall be administered by the State Department of Education under policies established by the State Board of Education. It is the intent of the Legislature that the fund shall provide permanent financial assistance to eligible school districts, county superintendents of schools, local agencies, private schools, parochial schools, and child development programs, for implementing the school meal program. The fund shall be used to reimburse the cafeteria account of school districts, county superintendents of schools, local agencies, private schools, parochial schools, and child development programs, based upon the number of qualifying meals served to students.

SEC. 14. Section 17315 is added to the Education Code, to read:

17315. (a) To the State Child Nutrition Fund: (1) there is hereby appropriated from the General Fund the sum of not to exceed nine million five hundred thousand dollars ($9,500,000) for fiscal year 1975–76; (2) there is hereby reappropriated the unexpended balance of the appropriation made by Item 319 of the Budget Act of 1975, for fiscal year 1975–76; and (3) for each fiscal year after fiscal year 1975–76, from the General Fund, the amount recommended to be

necessary therefor by the Superintendent of Public Instruction and established pursuant to the Budget Act each year, for allocation and disbursement pursuant to Article 4.2 (commencing with Section 17459) of this chapter, except Section 17459.3.

(b) There is hereby appropriated for each fiscal year from the General Fund to the State Child Nutrition Fund the sum of not to exceed two and one-half percent (2½%) of the sum appropriated for each fiscal year pursuant to subdivision (a), for expenditure pursuant to Section 17459.3.

SEC. 17. Article 4.2 (commencing with Section 17459) is added to Chapter 2 of Division 14 of the Education Code, to read:

Article 4.2. Child Nutrition Allowances to School Districts, County Superintendents of Schools, Local Agencies, Private Schools, Parochial Schools, and Child Development Programs

17459. The Superintendent of Public Instruction shall make allowances from the State Child Nutrition Fund as follows:

(a) Reimbursement of child nutrition entities, as defined by Section 11921.5, for all eligible meals, pursuant to Section 11927.

(b) Reimbursement of school districts for the difference between the current fiscal year average statewide lunch or breakfast cost for all free and reduced-price meals required by Section 11930 as determined by the Superintendent of Public Instruction and the combined total income per meal derived from pupil charges, federal funds, and state funds as provided in Article 9 (commencing with Section 11930) of Chapter 4 of Division 9, except that this amount shall be reduced by the district contribution, computed pursuant to Section 17459.1.

(c) Reimbursement of county superintendents of schools for the difference between the current fiscal year average statewide lunch or breakfast cost for all free and reduced-price meals as determined by the Superintendent of Public Instruction and the combined total income per meal derived from pupil charges, federal funds, and state funds as provided in Article 9 (commencing with Section 11930) of Chapter 4 of Division 9.

The combined state and federal reimbursements shall not exceed the current fiscal year average statewide lunch or breakfast cost. If the combined pupil charges, state reimbursements, and federal reimbursements exceed the current average statewide lunch or breakfast costs, the federal funds shall be expended prior to the expenditure of any state funds.

17459.1. The Superintendent of Public Instruction shall compute for each school district an amount, to be known as the district contribution, which would be produced if a tax of five cents ($0.05) was levied on each one hundred dollars ($100) of 100 percent of the assessed valuation in such district as shown by the last equalized assessment roll of the district for the current year and the resulting sum was divided by the number of free and reduced-price lunches

or breakfasts served by the district to needy pupils during the current fiscal year.

17459.2. The Department of Education shall make allowances from the State Child Nutrition Fund three times during each fiscal year. By September 15, the department shall calculate the amount apportioned to eligible recipients under this fund for the prior year and distribute 50 percent of this amount. By February 15, the Department of Education shall estimate the amount the recipient will receive during the current fiscal year, calculate 80 percent of this amount, subtract the amount previously paid under this article, and distribute this amount to the school district. By August 15, the Department of Education shall calculate and distribute the amount that should be apportioned under this article.

17459.3. From funds appropriated to the State Child Nutrition Fund by subdivision (b) of Section 17315, the Superintendent of Public Instruction shall make the following expenditures:

(a) Not to exceed 20 percent, for state administrative expenses.

(b) Not to exceed 80 percent, for distribution to child nutrition entities, as defined by Section 11921.5, which maintain nutrition education programs on a project approval basis pursuant to subdivision (b) of Section 11925 and for expenditure by the Department of Education; provided, however, that of such 80 percent not more than 5 percent thereof shall be used by the department for the development, implementation, supervision, and evaluation of nutrition education programs.

SEC. 19. This act shall be known and may be cited as the "Child Nutrition Facilities Act of 1975."

SEC. 20. The Legislature hereby finds and declares that the costs of duties, obligations, or responsibilities imposed upon school districts and county superintendents of schools by Article 9 (commencing with Section 11930) of Chapter 4 of Division 9 of the Education Code, under existing law, will be paid almost entirely by federal and state funds and that, therefore, notwithstanding Section 2231 of the Revenue and Taxation Code there shall be no reimbursement pursuant thereto nor shall there be any appropriation made by this act for such remaining costs because the cost of such unreimbursed duties, obligations, and responsibilities imposed upon school districts and county superintendents of schools will be minor and not cause any financial burden to school districts and county superintendents of schools.

SEC. 21. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting such necessity are:

In order that vital pupil food service program allocations authorized by this act may be made at the commencement of the 1975–76 academic year and that existing food service programs not be diminished or disrupted, it is necessary that this act take effect immediately.

CHAPTER 1278

An act to amend Sections 70059.7, 73912, 73913, 73914, 73914 1, 73915, 74642, 74643, 74644, 74644.2, and 74647 of, and to add Section 68517 to, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature October 2, 1975 Filed with Secretary of State October 2, 1975]

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

SECTION 1. Section 68517 is added to the Government Code, to read:

68517. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in Santa Barbara County. Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of the county and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reporters of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period;

(2) The fees charged and the fees collected for such transcripts;

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts;

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose of reporting proceedings, and the compensation received for this purpose; and

SEC. 2. Section 70059.7 of the Government Code is amended to read:

70059.7. In Santa Barbara County, each regular official reporter shall be paid a biweekly salary which shall be six hundred eighty-five dollars and fifty-three cents ($685.53) at step A, seven hundred twenty dollars and fifty-eight cents ($720.58) at step B, and seven hundred fifty-seven dollars and forty-three cents ($757.43) at step C, which salary shall include payment for services in reporting all proceedings in the superior court, before the grand jury, and before coroners' inquests. The initial hiring rate for each position shall be step A, provided, however, that the judges of the court may appoint a reporter at a higher step if such person has the experience and qualifications to entitle that individual to appointment at a higher initial step. A step advancement from step A to step B may be granted following the completion of six full months of service in the position. A person may advance to step C upon completion of a

12-month period of full-time service at step B. All step advances pursuant to this section shall be determined by the judges of the court. The salaries herein provided for shall be applicable to regular official reporters so employed on July 1, 1975, but for the purpose of determining the salaries to be paid on and after such date, all years of service rendered by such reporters to a county prior to July 1, 1975 shall be counted in determining the salary to which they are entitled under the salary step provisions of this section. In addition to the duties required by the provisions of this section, and notwithstanding the provisions of Section 69956, regular official reporters, when not actually engaged in the performance of other lawfully imposed duties, shall, at no additional compensation, render stenographic or clerical assistance, or both, to the superior court as may be directed by the presiding judge or court administrator.

Reporters pro tempore shall be paid at the per diem rate of seventy-six dollars ($76) for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1978, unless ratified by statute by the Legislature prior to that date.

Each regular official reporter shall be entitled to, and shall receive, the equivalent of one day per month sick leave credit which shall be cumulative from year to year without limit. Upon termination of employment, each regular official reporter shall be entitled to, and shall receive, monetary compensation for unused sick leave credit in accordance with the policy then in effect for employees of the County of Santa Barbara.

Each regular official reporter shall be entitled to accrue and use vacation credit at the same rate and subject to the same conditions as regular county employees.

In such a county, the fee required by Section 70053 shall be ten dollars ($10).

In addition to any fee otherwise required, in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each succeeding day a reporter is required.

SEC. 3. Section 73912 of the Government Code is amended to read:

73912. There shall be one clerk of the municipal court, one assistant clerk of the municipal court, one chief deputy clerk, two municipal court clerks, one account clerk III, two clerk-typists III, one clerk-typist II, and two clerk-typists I, each of whom shall receive a salary in accordance with Sections 73914, 73914.1, and 73915.

SEC. 4. Section 73913 of the Government Code is amended to read:

73913. There shall be one marshal, one chief deputy marshal, one deputy marshal II, four deputy marshals, one account clerk III, one account clerk II, and one clerk-typist II, each of whom shall receive a salary in accordance with Sections 73914, 73914.1, and 73915.

SEC. 5. Section 73914 of the Government Code is amended to read:

73914. The biweekly salaries for the following classes of positions shall be, and shall be increased, in accordance with the following schedule:

	Range	Hourly rate Step A	A	B	C	D	E
Clerk of the municipal court	334	$7 3778	$590 22	$620 41	$652 17	$685 53	$720 58
Assistant clerk of the municipal court	246	4 7569	380 55	400 62	420 47	441 97	464 57
Chief deputy clerk	242	4 6630	373 04	392 11	412 17	433 24	455 39
Municipal court clerk	217	4 1163	329 30	346 14	363 85	382 46	402 02
Clerk-typist III	192	3 6335	290 68	305 54	321 18	337 62	354 89
Clerk-typist II	165	3 1757	254 06	267 05	280 71	295 07	310 15
Clerk-typist I	146	2 8886	231 09	242 90	255 33	268 38	282 11
Marshal	357	8 2751	662 01	695 86	731 45	768 85	808 18
Chief deputy marshal	338	7 5265	602 12	632 92	665 32	699 34	735 10
Deputy marshal II	289	5 8946	471 57	495 69	521 03	547 69	575 69
Deputy marshal	279	5 6079	448 63	471 57	495 69	521 03	547 69
Account clerk III	202	3 8193	305 54	321 18	337 62	354 89	373 04
Account clerk II	175	3 3381	267 05	280 71	295 07	310 15	326 03

SEC. 6. Section 73914.1 of the Government Code is amended to read:

73914.1. (a) Chief deputy marshals, deputy marshals II, and deputy marshals shall receive such initial and annual uniform allowances as may be provided by resolution or ordinances to those employees of the sheriff's department of Santa Barbara County who are classified as sheriff's deputies.

(b) The administration of the salary plan provided by this article, including the hiring rate, increases within range, salary on promotion, and salary on position reclassification, shall be in accordance with the current personnel rules and salary ordinance of the County of Santa Barbara.

(c) On and after July 2, 1973, the following regulations will govern

the administration of the classification and compensation schedule contained in this article:

(1) Except as otherwise provided in this article, all employees shall be entitled to the same vacation, sick leave, leave of absence, and similar benefits, and shall be subject to the same rules and regulations concerning length of workweek, anniversary dates and changes thereof, as is now or may be provided by ordinances and policies approved by the Board of Supervisors of Santa Barbara County for other employees of the county.

Nothing in this article shall be construed to place the marshal's or clerk's office, their employees and other municipal court attachés under the civil service system of Santa Barbara County, but such employees and attachés may be placed under the county's civil service system by court rule adopted by the judges of this municipal court. All persons holding positions in the marshal's office at the time of being placed under the civil service system, shall automatically succeed to the same position without further examination, qualification, loss of rights, benefits or status.

(2) For purposes of this article, an employee, unless otherwise designated, refers to every person filling any position established by Sections 73912 and 73913.

SEC. 7. Section 73915 of the Government Code is amended to read:

73915. Notwithstanding any other provisions of this article, whenever a different compensation is established for any of the hereinafter mentioned positions under the County of Santa Barbara salary ordinance, the following provisions shall apply to salaries mentioned in this article:

(a) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as superior court clerk II, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of clerk of the municipal court, assistant clerk of the municipal court, chief deputy clerk, and municipal court clerk under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(b) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as clerk-typist III, clerk-typist II, account clerk III, account clerk II, and clerk-typist I, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of clerk-typist III, account clerk III, clerk-typist II, account clerk II, and clerk-typist I under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(c) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as sheriff's deputy, the percentage of such increase or decrease shall be ascertained and the salary range for the

classification of marshal, chief deputy marshal, deputy marshal II, and deputy marshal under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

Whenever a salary increase is authorized by this article, such increase shall be payable at the same time the corresponding increase under the Santa Barbara County salary ordinance is payable.

Any changes in compensation made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1978, unless ratified by statute by the Legislature prior to that date.

SEC. 8. Section 74642 of the Government Code is amended to read:

74642. There shall be one clerk-administrative officer of the municipal court, one assistant clerk-administrator of the municipal court, one chief deputy of the municipal court, seven municipal court clerks, one clerk, supervising, one account clerk III, two clerks III, six clerks II, clerk-typists II, one account clerk-typist, six clerk-typists I, one clerk I, and one extra help as needed, each of whom shall receive a salary in accordance with Sections 74644, 74644.1, and 74644.2.

SEC. 9. Section 74643 of the Government Code is amended to read:

74643. There shall be one marshal, one chief deputy marshal, one marshal's sergeant, nine deputy marshals, one clerk, supervising, one account clerk III, one account clerk II, three clerks II, one clerk-typist II, and one clerk I, each of whom shall receive a salary in accordance with Sections 74644, 74644.1, and 74644.2.

SEC. 10. Section 74644 of the Government Code is amended to read:

74644. The biweekly salary for the following classes of positions shall be, and shall be increased, in accordance with the following schedule:

	Range	Hourly rate Step A	A	B	C	D	E
Clerk-administrative officer of the municipal court	334	$7 3778	$590 22	$620 41	$652 17	$685 53	$720 58
Chief deputy of the municipal court	246	4 7569	380 55	400 02	420 47	441 97	464 57
Clerk, supervising .	212	4 0148	321 18	337 62	354 89	373 04	392 11
Account clerk III	202	3 8193	305 54	321 18	337 62	354 89	373 04
Account clerk II	175	3 3381	267 05	280 71	295 07	310 15	326 03
Clerk III	192	3 6335	290 68	305 54	321 18	337 62	354 89
Clerk II	165	3 1757	254 06	267 05	280 71	295 07	310 15
Account clerk-typist	156	3 0363	242 90	255 33	268 38	282 11	296 54

Clerk-typist II	165	3 1757	254 06	267 05	280 71	295 07	310 15
Clerk-typist I	146	2 8886	231 09	242 90	255 33	268 38	282 11
Clerk I	146	2 8886	231 09	242 90	255 33	268 38	282 11
Extra help	146	2 8886	231 09	242 90	255 33	268 38	282 11
Marshal	357	8 2751	662 01	695 86	731 45	768 85	808 18
Chief deputy marshal	338	7 5265	602 12	632 92	665 32	699 34	735 10
Marshal's sergeant	314	6 6774	534 19	561 51	590 22	620 41	652 17
Deputy marshal	279	5 6079	448 63	471 57	495 69	521 03	547 69
Assistant clerk-administrator of the municipal court	283	5 7209	457 67	481 07	505 67	531 54	558 72
Municipal court clerk	217	4 1163	329 30	346 14	363 85	382 46	402 02

SEC. 11. Section 74644 2 of the Government Code is amended to read:

74644.2. Notwithstanding any other provisions of this article, whenever a different compensation is established for any of the hereinafter mentioned positions under the County of Santa Barbara salary ordinance, the following provisions shall apply to salaries mentioned in this article:

(a) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as superior court clerk II, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of clerk-administrative officer of the municipal court, assistant clerk-administrator of the municipal court, chief deputy of the municipal court, and municipal court clerk under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(b) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as clerk, supervising; account clerk III; account clerk II; clerk III; clerk II; account clerk-typist; clerk-typist II, clerk-typist I; clerk I; and extra help, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of clerk, supervising; account clerk III; account clerk II; clerk III; clerk II; account clerk-typist; clerk-typist II; clerk-typist I; clerk I; and extra help under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

(c) Whenever a different compensation is established for the class of position now and hereafter designated in the Santa Barbara County salary ordinance as sheriff's deputy, the percentage of such increase or decrease shall be ascertained and the salary range for the classification of marshal, chief deputy marshal, marshal's sergeant,

and deputy marshal under this article shall be changed by increasing or decreasing each salary column within the appropriate range by such percentage.

Whenever a salary increase is authorized by this article, such increase shall be payable at the same time the corresponding increase under the Santa Barbara County salary ordinance is payable.

Any changes in compensation made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1978, unless ratified by statute by the Legislature prior to that date.

SEC 12. Section 74647 of the Government Code is amended to read:

74647. (a) Full-time official reporters appointed by the majority of the judges of the municipal court pursuant to the provisions of Section 72194 and so designated, shall be attachés of the court and shall receive a biweekly salary in accordance with the provisions of Section 70059.7. Such salary shall be paid at the same times and according to the same procedures as salaries of employees of the County of Santa Barbara. During the hours when the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

(b) The judges of the court may appoint as many part-time additional reporters as the business of the court requires. The additional reporters shall be known as official reporters pro tempore, and they shall serve without salary but shall receive, for reporting, fees at the per diem rate fixed by Section 70059.7. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1978, unless ratified by statute by the Legislature prior to that date. In criminal cases such fees upon order of the court shall be a charge against the general fund of the county.

(c) An official reporter when not engaged in the performance of duties for the municipal court, may be appointed to serve as such reporter for the Santa Barbara County Grand Jury or in any other court in the County of Santa Barbara.

SEC. 13. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for court reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are

made for specific counties. Accordingly, this legislation affecting Santa Barbara County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in these counties in view of their submitted requests for adjustments in the compensation provided to court reporters in such counties.

SEC. 14. Notwithstanding Section 2231 of the Revenue and Taxation Code there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act, because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

Court reporters in adjacent and nearby counties are paid significantly higher salaries than are currently paid in Santa Barbara County and this results in a shortage of qualified court reporters in Santa Barbara County. Unless this situation is promptly remedied, it may well be necessary to close courts within the county. In order to rectify this situation, and to allow the personnel and classification changes made by the provisions of this act in municipal court districts in Santa Barbara County at the earliest feasible time, it is necessary that this act take effect immediately.

CHAPTER 1279

An act to amend Sections 73682, 73683, 73684, 73694, 74604, 74606, 74607, and 74611 of, and to repeal Sections 73688 and 73689 of, the Government Code, relating to municipal court employees.

[Became law without Governor's signature October 2, 1975 Filed with Secretary of State October 2, 1975]

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

SECTION 1. Section 73682 of the Government Code is amended to read:

73682. There shall be one clerk to be appointed by the judges of the court in the manner provided by law who shall be the clerk, administrator and secretary of the court. He shall receive a salary at range 662.

SEC. 2. Section 73683 of the Government Code is amended to read:

73683. The clerk may appoint the following court personnel who shall receive a salary at the range indicated as set forth in Section 73684:

(a) Three chief deputy clerks at salary range 426.
(b) Eight court clerks at salary range 379.
(c) Seven deputy clerks II at salary range 379.
(d) One calendar clerk at salary range 379.
(e) Four deputy clerks I at salary range 296.
(f) One secretary at salary range 368.
(g) One stenographer-secretary at salary range 335.
(h) Two stenographers II at salary range 279.
(i) Two stenographers I at salary range 229.
(j) One supervising data entry operator at salary range 327.
(k) Four data entry operators II at salary range 264.
(*l*) Four data entry operators I at salary range 207.
(m) Twenty-two typist-clerks II at salary range 247.
(n) Twenty-two typist-clerks I at salary range 207.
(o) The clerk may appoint any combination of stenographers and secretaries (f), (g), (h), and (i) not to exceed a total of two, may appoint any combination of typists (m) and (n) not to exceed a total of 22, and may appoint any combination of data entry operators (k) and (*l*) not to exceed a total of four.

SEC. 3. Section 73684 of the Government Code is amended to read:

73684. The biweekly salaries of the following classes of positions shall be in accordance with the following schedule:

Position	Range	1	2	3	4	5	6
Municipal court clerk	662	662	695	730	767	805	—
Chief deputy clerk	426	427	447	469	492	517	—
Court clerk	379	379	398	418	439	461	—
Deputy clerk II	379	379	398	418	439	461	—
Calendar clerk	379	379	398	418	439	461	—
Deputy clerk I	296	296	311	327	343	360	—
Secretary	368	368	386	405	425	446	—
Stenographer/ secretary	335	335	352	370	389	408	—
Stenographer II	279	279	293	308	323	339	—
Stenographer I	229	229	240	252	265	278	292
Supervising data entry operator	327	327	343	360	378	397	—
Data entry operator II	264	264	277	291	306	321	337
Data entry operator I	207	207	217	228	239	251	264
Typist-clerk II	247	247	259	272	286	300	315
Typist-clerk I	207	207	217	228	239	251	264

Except as provided in Section 73687, initial appointments shall be at step 1 of the appropriate salary range. Thereafter at the

recommendation of the clerk, the officer or attaché will be entitled to advance to step 2 after the completion of 13 full pay periods of continuous satisfactory service, and to steps 3, 4, and 5 after completion of 26 full pay periods of continuous satisfactory service at each preceding step. Officers or attachés at salary range 264 or below and who have been on the fifth step of a position for 52 full pay periods or more are eligible to advance to step 6. Except as specifically provided in this article to the contrary, all benefits, privileges and other provisions affecting the employment of county employees shall apply to all officers and attachés of the municipal court.

SEC. 4. Section 73688 of the Government Code is repealed.

SEC. 5. Section 73689 of the Government Code is repealed

SEC. 6. Section 73694 of the Government Code is amended to read:

73694. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of Chapter 8 of this title and the provisions of this article, and in order to equalize the compensation of employees of the municipal court with the compensation paid to county employees with commensurate duties and responsibilities, upon the recommendation of the judges as to the clerk and the clerk as to all other officers and attachés of the court, and with the approval of the Board of Supervisors of the County of Fresno, the officers and attachés of the court may be paid a compensation not exceeding 25 percent of the amounts provided for the position by Sections 73682 and 73684. Such increases may be made operative at the same time as the higher compensation becomes operative for the similar positions within the County of Fresno. Any pay increase authorized by this section shall only be effective until January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

SEC. 7. Section 74604 of the Government Code is amended to read:

74604. There shall be one clerk of the court known as the clerk-administrator who shall be appointed by the presiding judge and who shall hold office at his pleasure. He shall receive an annual salary of eighteen thousand three hundred sixty dollars ($18,360). In addition to any other duties imposed upon him by law, at the direction of the presiding judge, the clerk-administrator shall have the following duties:

(a) To direct and coordinate the nonjudicial activities of the court.

(b) To coordinate the personnel practices in compliance with rules of the court.

(c) To prepare and administer the budget of the court.

(d) To coordinate with other county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for operation of the court.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge relating to the business of the

court, including, but not limited to, such matters as standardization of forms, procedures, and classification and compensation of officers and employees.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and recommendations based on such data.

(g) To serve as liaison for the court with other persons, committees, boards, groups, and associations as directed by the presiding judge.

SEC. 8. Section 74606 of the Government Code is amended to read:

74606. The county sheriff shall be ex officio marshal of the court and shall act as such without additional compensation. He may appoint four of his deputies to be ex officio deputy marshals, each of whom shall receive a monthly salary at a rate specified in range 61.7.

SEC. 9. Section 74607 of the Government Code is amended to read.

74607. The presiding judge of the court may appoint:

(1) Three deputy court clerks, each of whom shall receive a monthly salary at a rate specified in range 60.1.

(2) One senior account clerk, who shall receive a monthly salary at a rate specified in range 58.7.

(3) Two senior typist-clerks, each of whom shall receive a monthly salary at a rate specified in range 58.2.

(4) Two intermediate typist-clerks, each of whom shall receive a monthly salary at a rate specified in range 56.8.

(5) Seven typist-clerks, each of whom shall receive a monthly salary at a rate specified in range 55.9.

SEC. 10. Section 74611 of the Government Code is amended to read:

74611. Whenever reference to a numbered salary range is made in any section of this article, the following schedule of monthly salaries shall apply:

Range number	1st step	2nd step	3rd step	4th step	5th step
55 9	528	555	582	612	642
56 0	534	560	588	618	648
56 1	539	566	594	624	655
56 2	544	571	600	630	661
56 3	549	577	606	636	668
56 4	555	582	612	642	674
56 5	560	588	618	648	681
56 6	566	594	624	655	688
56 7	571	600	630	661	694
56 8	577	606	636	668	701
56 9	582	612	642	674	708
57 0	588	618	648	681	715

57 1	594	624	655	688	722
57 2	600	630	661	694	729
57 3	606	636	668	701	736
57 4	612	642	674	708	743
57 5	618	648	681	715	751
57 6	624	655	688	722	758
57 7	630	661	694	729	765
57 8	636	668	701	736	773
57 9	642	674	708	743	781
58 0	648	681	715	751	788
58 1	655	688	722	758	796
58 2	661	694	729	765	804
58 3	668	701	736	773	812
58 4	674	708	743	781	820
58.5	681	715	751	788	828
58 6	688	722	758	796	836
58 7	694	729	765	804	844
58 8	701	736	773	812	852
58 9	708	743	781	820	861
59 0	715	751	788	828	869
59 1	722	758	796	836	878
59 2	729	765	804	844	886
59 3	736	773	812	852	895
59 4	743	781	820	861	904
59 5	751	788	828	869	912
59 6	758	796	836	878	921
59 7	765	804	844	886	930
59 8	773	812	852	895	940
59 9	781	820	861	904	949
60 0	788	828	869	912	958
60 1	796	836	878	921	967
60 2	804	844	886	930	977
60 3	812	852	895	940	987
60.4	820	861	904	949	996
60 5	828	869	912	958	1006
60 6	836	878	921	967	1016
60 7	844	886	930	977	1026
60 8	852	895	940	987	1036
60 9	861	904	949	996	1046
61 0	869	912	958	1006	1056
61 1	878	921	967	1016	1067
61 2	886	930	977	1026	1077
61 3	895	940	987	1036	1088
61 4	904	949	996	1046	1098
61 5	912	958	1006	1056	1109
61 6	921	967	1016	1067	1120
61 7	930	977	1026	1077	1131
61 8	940	987	1036	1088	1142
61 9	949	996	1046	1098	1153

62 0	958	1006	1056	1109	1165
62 1	967	1016	1067	1120	1176
62 2	977	1026	1077	1131	1188
62 3	987	1036	1088	1142	1199
62 4	996	1046	1098	1153	1211
62 5	1006	1056	1109	1165	1223
62 6	1016	1067	1120	1176	1235
62 7	1026	1077	1131	1188	1247
62 8	1036	1088	1142	1199	1259
62 9	1046	1098	1153	1211	1271
63 0	1056	1109	1165	1223	1284
63 1	1067	1120	1176	1235	1297
63 2	1077	1131	1188	1247	1309
63 3	1088	1142	1199	1259	1322
63 4	1098	1153	1211	1271	1335
63 5	1109	1165	1223	1284	1348
63 6	1120	1176	1235	1297	1361
63 7	1131	1188	1247	1309	1375
63 8	1142	1199	1259	1322	1388
63 9	1153	1211	1271	1335	1402
64 0	1165	1223	1284	1348	1416
64 1	1176	1235	1297	1361	1429
64 2	1188	1247	1309	1375	1443
64 3	1199	1259	1322	1388	1458
64 4	1211	1271	1335	1402	1472
64 5	1223	1284	1348	1416	1486
64 6	1235	1297	1361	1429	1501
64 7	1247	1309	1375	1443	1516
64 8	1259	1322	1388	1458	1530
64 9	1271	1335	1402	1472	1545
65 0	1284	1348	1416	1486	1561
65 1	1297	1361	1429	1501	1576
65 2	1309	1375	1443	1516	1591
65 3.	1322	1388	1458	1530	1607
65 4	1335	1402	1472	1545	1623
65 5	1348	1416	1486	1561	1639
65 6	1361	1429	1501	1576	1655
65 7	1375	1443	1516	1591	1671
65 8	1388	1458	1530	1607	1687
65 9	1402	1472	1545	1623	1704
66 0	1416	1486	1561	1639	1721

In the event the board of supervisors amends the resolution establishing salary ranges and monthly salary rates for the personnel of the County of San Luis Obispo effective on the date of this act, or passes a new resolution which provides for a change in compensation for ranges or steps, such changes shall be effective for court employees on the effective date of the action of the board of supervisors and shall remain effective only until January 1 of the

second year following the year in which such a change is made.

SEC. 11. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

CHAPTER 1280

An act to amend Sections 70025, 70045.5, 70046, 70055, 73118, 73642, 73643, 73643.1, 73644, 73648, 73952, 73953, 73953.1, 73958, 74140, 74342, 74343, 74343.1, 74343.2, 74350, 74350.1, 74361, 74364, 74370, 74374, 74376 and 74746 of, to add Section 68519 to, and to repeal Section 74372 of the Government Code, relating to courts.

[Became law without Governor's signature October 2, 1975 Filed with Secretary of State October 2, 1975]

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

SECTION 1. Section 68519 is added to the Government Code, to read:

68519. (a) The Judicial Council shall provide by rule for the maintenance of records as described in subdivision (c), which shall be filed with the council by each official reporter and official reporter pro tempore of any court located in San Bernardino County. Such records shall be inspected and audited by the Judicial Council.

(b) The Judicial Council shall submit an annual report to the board of supervisors of San Bernardino County and to the Legislature summarizing the information contained in the records.

(c) Each such annual report shall include the following information relative to the official court reports of the county:

(1) The quantity and types of transcripts prepared by the official reporters and official reporters pro tempore during the reporting period;

(2) The fees charged and the fees collected for such transcripts;

(3) Expenses incurred by the reporters in connection with the preparation of such transcripts;

(4) The amount of time the reporters have spent in attendance upon the courts for the purpose; and

(5) Such other information as the Judicial Council may require.

SEC. 1.1. Section 70025 of the Government Code is amended to read:

70025. In Riverside County, each regular official reporter of the superior court shall receive an annual salary of eighteen thousand eight hundred dollars ($18,800). Each official reporter pro tempore of the superior court shall receive compensation at the rate of

seventy dollars ($70) per day, for reporting in shorthand all proceedings in the superior court as required by law or the order of the superior court.

SEC. 1.2. Section 70045.5 of the Government Code is amended to read:

70045.5. In a county with a population of 74,492 and not over 76,000 as determined by the 1970 federal census, each regular official reporter shall be paid an annual salary of eighteen thousand eight hundred dollars ($18,800) and each pro tempore official court reporter shall be paid seventy dollars ($70) a day for the days he is actually on duty under order of the court.

Notwithstanding any other provision to the contrary, one year after the operative date of this section and thereafter, the salary range of official court reporters may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the superior court. Such changes in compensation made pursuant to these provisions shall be on an interim basis and shall expire on January 1 of the second year after the calendar year in which the change occurs, unless ratified by the Legislature.

The presiding judge of the superior court may, upon request of the presiding judge of the municipal court, assign an official superior court reporter to the municipal court during such times as the business of the municipal court requires. Official superior court reporters who are so assigned shall receive no additional compensation for such service.

Regular official reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave and other benefits allowed to employees of the county.

Each official reporter shall perform the duties required of him by law. In addition, reporters shall render stenographic or clerical assistance, or both, to the judges of the superior court, as any such judge may direct.

SEC. 1.3. Section 70046 of the Government Code is amended to read:

70046. San Bernardino County, each regular official reporter shall be paid an annual salary of eighteen thousand eight hundred dollars ($18,800), and each pro tempore official reporter shall be paid seventy dollars ($70) a day for the days he actually is on duty under order of the court.

During the hours which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

SEC. 1.4. Section 70055 of the Government Code is amended to read:

70055. In San Bernardino County, the fee required by Section 70053 shall be sixteen dollars and fifty cents ($16.50).

SEC. 1.5. Section 73118 of the Government Code is amended to

read:

73118. In any civil action or proceedings, in addition to the fees required by Article 2 (commencing with Section 72050) of Chapter 8 of this title, a fee of sixteen dollars and fifty cents ($16.50) shall be paid to the clerk of the court by each party or jointly by parties appearing jointly, once only in any such action or proceedings, in the following instances:

(a) Upon the filing of a complaint or other first paper;

(b) Upon the filing of an answer or other first paper on behalf of any party (or parties appearing jointly) other than the plaintiff;

(c) Upon the filing of papers transmitted from another court on the transfer of a civil action or a special proceeding. The fees so required shall be taxed as costs in favor of the party paying the same and to whom costs are awarded by the judgment of the court. All fees collected under the provisions of this section shall be transmitted to the county treasurer in the same manner as fees collected under Article 2 (commencing with Section 72050) of Chapter 8 of this title.

The fee required by this section shall be taxed as costs in favor of any party paying it and to whom costs are awarded by the judgment of the court. It is not subject to Section 6103.

SEC. 1.6. Section 73642 of the Government Code is amended to read:

73642. There shall be one clerk-administrative officer who shall be appointed by the judges of the court and who shall receive a biweekly salary at a rate specified in Range No. 55.16 of the salary schedule incorporated by Section 74343.1. In no event shall the salary of the clerk-administrative officer be less than 25 percent higher than that specified for the position of assistant clerk-administrative officer. Appointment to such position shall be at step C of the salary schedule unless the appointee is entitled to a higher step under the provisions of subdivision (c) of Section 74350.

SEC. 2. Section 73643 of the Government Code is amended to read:

73643. The clerk-administrative officer may appoint with the approval of the judges:

(a) One assistant clerk-administrative officer who shall receive a biweekly salary at the rate specified in Range No. 50.16. In no event shall the compensation of the assistant clerk-administrative officer be more than 20 percent below that specified for the assistant clerk of the San Diego Judicial District.

(b) Six supervising deputy clerks, each of whom shall receive a biweekly salary at the rate specified in Range No. 42.16.

(c) Eleven deputy clerks IV, each of whom shall receive a biweekly salary at the rate specified in Range No. 40.66.

(d) Thirteen deputy clerks III, each of whom shall receive a biweekly salary at the rate specified in Range No. 35.50.

(e) Twenty-eight deputy clerks II or I as the case may be. Each deputy clerk II shall receive a biweekly salary at the rate specified in Range No. 33.00. Each deputy clerk I shall receive a biweekly

salary at the rate specified in Range No 31.00.

(f) Four deputy clerks who shall be data entry operators, each of whom shall receive a biweekly salary at a rate specified in Range No. 31.70 At the election of the clerk-administrative officer, one of such deputy clerks may be assigned as data entry supervisor and upon such assignment shall receive a biweekly salary at a rate 5 percent higher than that specified herein.

(g) Any person occupying a position specified in subdivision (b), (c), (d), or (e) and performing as a certified interpreter shall be paid additional compensation at the biweekly rate specified for bilingual ability in the salary ordinance of the County of San Diego, except that no more than three such certified interpreters shall be so compensated at any one time.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective range number in the salary schedule incorporated by Section 74343.1, and the provisions of subdivisions (a), (b), (c), (d), and (e) of that section are applicable to the attachés appointed pursuant to this section. In no event shall the salary of the clerk-administrative officer, assistant clerk-administrative officer or any deputy clerk who occupied his position on the day prior to the effective date of this section be less than his salary on such day.

SEC. 3. Section 73643.1 of the Government Code is amended to read:

73643.1. In the event of an increase in the number of judges the clerk-administrative officer may appoint one deputy clerk IV, one deputy clerk III, one deputy clerk II, and one deputy clerk I, for each additional judgeship created. Such additional deputy clerks shall receive a biweekly salary at the rate specified for their classifications in Section 73643.

SEC. 4. Section 73644 of the Government Code is amended to read:

73644. By order entered in the minutes of the court, a majority of judges may appoint two judicial secretaries who shall be attachés of the court. The judicial secretaries shall receive a biweekly salary at the rate specified in Range No. 36.90 of the salary schedule provided in Section 74343.1, commencing at step D at initial employment and advancing to step E at the end of one year of continuous service.

The position of judicial secretary shall be deemed comparable to the position of assistant secretary authorized by Section 69892. Whenever the salary of assistant secretary is adjusted by the board of supervisors, a commensurate adjustment shall be made to the salary of the judicial secretaries and shall be effective on the same date as the effective date of the assistant secretary salary adjustment. But any such adjustment shall not be more than 20 percent higher or 20 percent lower than the range specified by this section and shall be effective only until January 1, 1979.

Notwithstanding the provisions of Section 73648, the judicial

secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges and benefits as are now or may hereafter be provided for by rule for the assistant secretaries of the Superior Court of the County of San Diego by the judges thereof.

SEC. 5. Section 73648 of the Government Code is amended to read:

73648. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result any amendments to this article shall receive credit for continued service to which he would be entitled under his previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (e) of Section 74343.1, including the right to participate in a retirement plan, and in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board. For purposes of this subdivision only, the clerk and assistant clerk shall receive the same privileges and benefits as are received by the classifications of probation officer and chief assistant probation officer, respectively, of the classified civil service of the County of San Diego. Such privileges and benefits shall be retroactively applied. The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is

appointed or promoted to a position, such person or attaché shall serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk to a like permanent position in such clerk's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the clerk's office has been increased so as to make such temporary position a permanent position.

SEC. 6. Section 73952 of the Government Code is amended to read:

73952. There shall be one clerk-administrative officer, who shall be appointed by the judges of the court and who shall receive a biweekly salary at a rate specified in Range No. 55.16 of the salary schedule incorporated by Section 74343.1. In no event shall the salary of the clerk-administrative officer be less than 25 percent higher than that specified for the position of assistant clerk-administrative officer. Appointment to such position shall be at step C of the salary schedule unless the appointee is entitled to a higher step under the provisions of subdivision (c) of Section 74350.

SEC. 7. Section 73953 of the Government Code is amended to read:

73953. The clerk-administrative officer may appoint:

(a) One assistant clerk-administrative officer who shall receive a biweekly salary at the rate specified in Range No. 50.16. In no event shall the compensation of the assistant clerk-administrative officer be more than 20 percent below that specified for the assistant clerk of the San Diego Judicial District.

(b) Five supervising deputy clerks who shall receive the biweekly salary specified in Range No. 42.16. A maximum of one position may be designated as the administrative section—supervising deputy clerk and may be paid 7½ percent above that specified for supervising deputy clerks.

(c) Nine deputy clerks IV, each of whom shall receive the biweekly salary specified in Range No. 40.66.

(d) Twenty deputy clerks III, each of whom shall receive the biweekly salary specified in Range No. 35.50.

(e) Thirty deputy clerks II or I, as the case may be. Each deputy clerk II shall receive the biweekly salary specified in Range No. 33.00. Each deputy clerk I shall receive the biweekly salary specified in Range No. 31.00.

(f) Two data entry operators, each of whom shall receive the biweekly salary specified in Range No. 31.70.

(g) One deputy clerk who shall be a stenographer and who shall receive a biweekly salary at a rate specified in Range No. 34.90.

(h) Any person occupying a position specified in subdivision (b), (c), (d), (e), or (f) and performing as a certified interpreter shall be paid additional compensation at the biweekly rate specified for bilingual ability in the salary ordinance of the County of San Diego, except that no more than seven such certified interpreters shall be so compensated at any one time.

The value in dollars of each salary provided for herein shall be at the rates indicated opposite the respective range number in the salary schedule incorporated by Section 74343.1, and the provisions of subdivisions (a), (b), (c), (d), and (e) of that section are applicable to the attachés appointed pursuant to this section. In no event shall the salary of the clerk-administrative officer, assistant clerk-administrative officer or any deputy clerk who occupied his position on the day prior to the effective date of this section be less than his salary on such day.

SEC. 8. Section 73953.1 of the Government Code is amended to read:

73953.1. In the event that there shall be an increase in the number of judges, the clerk-administrative officer may appoint one deputy clerk IV, one deputy clerk III, one deputy clerk II and one deputy clerk I for each respective additional judge so appointed. Such additional deputy clerks shall receive a biweekly salary at a rate specified in the appropriate schedule incorporated by Section 74343.1.

SEC. 9. Section 73958 of the Government Code is amended to read:

73958. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he would be entitled under his previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (e) of Section 74343.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan, and in the tuition refund and suggestion awards programs adopted by the Board of Supervisors of San Diego County. For purposes of this

subdivision only, the clerk and assistant clerk shall receive the same privileges and benefits as are received by the classifications of probation officer and chief assistant probation officer, respectively, of the classified service of the County of San Diego. Such privileges and benefits shall be retroactively applied. The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché must serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk to a like permanent position in such clerk's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the clerk's office has been increased so as to make such temporary position a permanent position.

SEC. 9.5. Section 74140 of the Government Code is amended to read:

74140. In each municipal court district, each regular official reporter of the municipal court shall receive an annual salary of eighteen thousand eight hundred dollars ($18,800). Each official reporter pro tempore of the municipal court shall receive compensation at the rate of seventy dollars ($70) per day, for reporting in shorthand all proceedings in the municipal court as required by law or the order of the municipal court.

SEC. 10. Section 74342 of the Government Code is amended to read:

74342. There shall be one clerk who shall be appointed by a majority of the judges of the court and who, notwithstanding the provisions of Section 74343.1, shall serve at the pleasure of the judges. He shall receive a biweekly salary at a rate specified in Range No. 60.16. In no event shall the compensation of the clerk be less than 30

percent higher than that specified for the position of assistant clerk.

SEC. 11. Section 74343 of the Government Code is amended to read:

74343. The clerk may appoint:

(a) One assistant clerk, with the consent of a majority of the judges of the court, who shall be empowered to act in the place and stead of the clerk in the event that the clerk is absent or unavailable for any reason and who shall receive a biweekly salary at a rate specified in Range No. 54.16. In no event shall the compensation of the assistant clerk be less than 37½ percent higher than that specified for the position of chief clerk.

(b) Five deputy clerks who shall be chief clerks in the administrative, civil, criminal, traffic, and accounting divisions of the court, and who shall receive a biweekly salary at the rate specified in Range No. 46.66.

(c) Five deputy clerks who shall be assistant chief clerks of division and who shall receive a biweekly salary at a rate specified in Range No. 43.66.

(d) Five supervising deputy clerks who shall receive a biweekly salary at a rate specified in Range No. 42.16.

(e) Thirty-nine deputy clerks IV, each of whom shall receive a biweekly salary at a rate specified in Range No. 40.66.

(f) One deputy clerk data entry supervisor who shall receive a biweekly salary at a rate specified in Range No. 34.80.

(g) Thirty-seven deputy clerks III, each of whom shall receive a biweekly salary at a rate specified in Range No. 35.50.

(h) Forty-three deputy clerks II, each of whom shall receive a biweekly salary at a rate specified in Range No. 33.00.

(i) Seventy deputy clerks I, each of whom shall receive a biweekly salary at a rate specified in Range No. 31.00.

(j) Eleven deputy clerks who shall be data entry operators and who shall receive a biweekly salary at a rate specified in Range 31 70.

(k) The seven deputy clerks assigned by the clerk of the court as clerks in the presiding department, criminal arraignment departments (two deputies), traffic arraignment departments (two deputies), special proceedings department, and setting and motion department, while serving in those capacities, shall receive a biweekly salary at a rate 5 percent higher than that which such deputy clerks were receiving prior to such assignment. The value, in dollars, of each biweekly salary herein shall be at the rates indicated opposite the respective range number in the salary schedule incorporated by Section 74343.1.

SEC. 12. Section 74343.1 of the Government Code is amended to read:

74343.1. The salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel is adopted and by reference incorporated herein, and whenever reference to a numbered salary range is made in any section of this article, such schedule of biweekly salaries shall apply.

(a) Unless otherwise specifically provided, each person appointed or promoted to a position, the compensation of which is fixed by reference to the salary schedule set forth in this section, shall, for the first six months of service, receive biweekly the rate of compensation specified in step A of the salary schedule for the position to which he is appointed. Upon the first day of the pay period following six months continuous service in step A, the initial rate of compensation of such person shall be increased to step B of the salary schedule for the position occupied. Upon the first day of the pay period following six months continuous service in step B, the initial rate of compensation of such person shall be increased to step C of the salary schedule for the position occupied. On and after the first day of the pay period following six months of continuous service at step C, such compensation shall be increased to step D of the salary schedule. On and after the first day of the pay period following 12 months of continuous service at step D, such compensation shall be increased to step E of the salary schedule.

The provisions of this subdivision shall not apply to any person employed on and after January 1, 1975, and any such person shall be entitled to receive the same step increases as set forth in the salary ordinance of the County of San Diego in effect July 1, 1974, for those persons employed by the County of San Diego on or after July 1, 1974.

(b) When any person in the service of the County of San Diego or in the service of another municipal court in San Diego County is appointed to a position in the service of the court compensated at a higher salary range than the salary range for the position relinquished or when any person in the service of the court is appointed or promoted to another position in such service compensated at a higher numbered schedule, he shall receive step A of such schedule if step A is at least one step higher than the salary received in the position relinquished; but if not, he shall receive initially that step schedule pertaining to such position which will provide a one-step increase in his compensation.

(c) Officers and attachés may be voluntarily transferred from a position in the service of a court in one judicial district to a position in the service of a court in another judicial district within the County of San Diego, from a position in the service of the County of San Diego to a position in the service of a court, from a position in the service of a court to a position in the service of the County of San Diego, or between the offices of clerk and marshal in the same manner that classified employees of the County of San Diego may be transferred between departments of the county. In determining the step of the salary range at which such transferred employee shall be paid, the employee may be given credit for continuous prior service in the service of the court or the County of San Diego from which he was transferred.

(d) When any person in the service of the court is demoted to another position he shall receive compensation at the highest step of the salary schedule applicable to the position to which he is demoted

which provides a salary not higher than that previously received by such person, except that if such demotion is due to disciplinary action, the appointing power may specify any step rate of such schedule which provides compensation not higher than that last previously received by such person.

(e) The hereinafter enumerated classes of positions in the court are deemed to be comparable in job level to certain classifications in the classified civil service of San Diego County and whenever the salaries of such classifications in the service of San Diego County are adjusted by the board of supervisors, the salaries of the comparable classifications in the clerk's office shall be adjusted a commensurate percentage in the salary schedule. Such adjustment shall not be more than 20 percent higher or 20 percent lower than the ranges specified in this article. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to the county classifications. In the event that the salary of any of the San Diego County classifications listed in this section are adjusted by the board of supervisors on any date prior to the effective date of any amendments to this article enacted by the Legislature at the 1975–76 Regular Session of the Legislature, commensurate adjustments shall be applied to the salaries of the comparable classifications in the clerk's office, such adjustments to take effect on the effective date of any amendments of this article enacted at the 1975–76 Regular Session of the Legislature. Any salary adjustments made as a result of this section shall be effective only until January 1, 1979.

The comparable classifications are as follows:

Municipal court classification	County classification
Deputy clerk, chief clerk	Superior court clerk
Deputy clerk, assistant chief clerk	Superior court clerk
Deputy clerk I	Intermediate clerk
Deputy clerk II	Intermediate clerk
Deputy clerk III	Senior clerk
Deputy clerk IV	Superior court clerk
Supervising deputy clerk	Superior court clerk
Data entry supervisor	Data entry supervisor
Data entry operator	Data entry operator
Court interpreter	Senior clerk
Deputy clerk stenographer	Senior stenographer

SEC. 13. Section 74343.2 of the Government Code is amended to read:

74343.2. There shall be four court interpreters who shall be deputy clerks to be appointed by a majority of the judges of the court and who shall receive a biweekly salary at a rate specified in Range No. 34.50.

SEC. 14. Section 74350 of the Government Code is amended to read:

74350. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he would be entitled under his previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (e) of Section 74341.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board. For purposes of this subdivision only, the clerk and assistant clerk shall receive the same privileges and benefits as are received by the classifications of probation officer and chief assistant probation officer, respectively, of the classified service of the County of San Diego. Such privileges and benefits shall be retroactively applied. The term "same privileges and benefits" for the purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché must serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such

temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk to a like permanent position in such clerk's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the clerk's office has been increased so as to make such temporary position a permanent position.

SEC. 15. Section 74350.1 of the Government Code is amended to read:

74350.1. In the event that there shall be an increase in the number of judges as provided in Section 74341, the clerk of the court may appoint one deputy clerk IV, one deputy clerk III, one deputy clerk II, and one deputy clerk I for each respective additional judge so appointed. Such additional deputy clerks shall receive a biweekly salary at a rate specified in the appropriate schedule incorporated by Section 74343.1 of this code.

SEC. 16. Section 74361 of the Government Code is amended to read:

74361. There shall be one marshal for all municipal courts established in judicial districts in San Diego County who shall be appointed pursuant to this article and who shall receive the biweekly compensation specified in Range No. 61.00 of the salary schedule incorporated by Section 74343.1. In no event shall the compensation of the marshal be less than 30 percent higher than that specified for the position of assistant marshal. Unless entitled to a higher range under the provisions of subdivision (c) of Section 74350, appointment to the position of marshal shall be made at the C step.

SEC. 17. Section 74364 of the Government Code is amended to read:

74364. The marshal may make the following appointments each of whom shall receive the biweekly compensation as specified in the range number provided in each subdivision from the salary schedule incorporated by Section 74343.1:

(a) Two assistant marshals, Range No. 55.00. In no event shall the compensation of an assistant marshal be less than 20 percent higher than that specified for the position of captain. Upon the occurrence of the first vacancy one of the positions of assistant marshal shall cease to exist provided, however, that there shall be a concurring increase of one position in the grade of captain.

(b) Two captains, Range No. 51.00.

(c) Four lieutenants, Range No. 48.30. A lieutenant shall be compensated at a biweekly rate 2½ percent higher than prescribed in this subdivision when in possession of an advanced peace officer standards and training certificate.

(d) Fifteen sergeants, Range No. 45.30. A sergeant shall be compensated at a biweekly rate 2½ percent higher than prescribed in this subdivision when in possession of an advanced peace officer standards and training certificate.

(e) One hundred eighteen deputy marshals, Range No. 41.30,

except that a deputy marshal shall be compensated at a biweekly rate 5 percent higher than prescribed in this subdivision when in possession of a basic peace officers standards and training certificate; 10 percent higher than prescribed in this subdivision when in possession of an intermediate peace officer standards and training certificate; and 12½ percent higher than prescribed in this subdivision when in possession of an advanced peace officer standards and training certificate.

(f) Six deputy marshal-stenographers, Range No. 34.90. The next vacancy occurring in this position shall cause a corresponding reduction in the number of deputy marshal-stenographers hereby authorized; provided, however, that such vacancy shall increase by one, a position designated as secretary II. The following two vacancies occurring in this position shall cause a corresponding reduction in the number of deputy marshal-stenographer positions hereby authorized; provided however, that each such vacancy shall increase by one, a position designated as senior typist.

(g) Four deputy marshal-matrons, Range No. 41.30. On the effective date of the amendments to this section at the 1975–76 Regular Session of the Legislature, the position of deputy marshal-matron shall cease to exist, provided, however, that each incumbent of said position shall succeed on that date to a position as deputy marshal under subdivision (e) of this section without loss of employee rights or seniority. The number of positions of deputy marshal in subdivision (e) shall be increased by four at the time of the succession of the deputy marshal-matrons. In addition there shall be three part-time deputy marshal—females who shall be employed as relief and additional help as needed.

(h) Sixteen intermediate typists, Range No. 31.00.

(i) Five senior typists, Range No. 34.50, provided that any senior typist while qualified and performing services as an interpreter shall be paid at a biweekly rate which shall be 10 percent higher than that specified for the position of senior typist. On the occurrence of a vacancy in the position of senior typist-interpreter there shall be no further appointments to the position.

(j) Four deputy marshal-cadets, Range No 31.30. At the time an incumbent in the position of deputy marshal-cadet attains the age of 21 he may be appointed by the marshal to a position of deputy marshal, providing such a position is open, without further qualification or examination.

(k) Two supervising clerks, Range No. 38.00.

(*l*) Three junior typists, Range No. 26.70.

(m) One secretary II, Range No. 35.40, who shall be appointed upon the occurrence of the first vacancy in the position of deputy marshal-stenographer.

(n) Every person specified in subdivision (f), (h), (i), (k), (*l*), or (m) who works a night shift shall be paid an hourly bonus equivalent to that bonus paid to night shift workers in the classified service of San Diego County who are in the comparable positions specified in

Section 74374. "Night shift" means an assigned work schedule of which not less than one-half of the total number of hours, plus one-half hour, are worked after 5 p.m. and before 8 a.m.

(o) Any person specified in subdivisions (f), (h), and (i), who may be assigned by the marshal to one of the positions designated as executive secretary, administrative-personnel secretary, or bookkeeping machine operator, shall receive, while serving in that capacity, biweekly compensation at a rate 10 percent higher than that specified in such person's designated subdivision.

SEC. 18. Section 74370 of the Government Code is amended to read:

74370. In addition to the compensation provided in this article the marshals and other attachés of the municipal court shall receive, and they shall be entitled to the same vacation, sick leaves, leaves of absence, bilingual pay, holidays, merit pay increases, retirement benefits, and all privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego, including the right to participate in any group accident, health, life insurance, or retirement plan adopted by the board of supervisors of the county It is further provided that the privileges and benefits hereinbefore provided shall be retroactively applied.

For purposes of providing the privileges and benefits specified in this section, each classification in the marshal's office shall receive benefits equal to those of the comparable classification in the classified civil service of San Diego County as specified in Section 74374. The term "benefits equal" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days, or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. The position of marshal shall receive no less employee benefits than those provided for the position of assistant marshal. For the purpose of this subdivision only, the marshal and assistant marshals shall receive no less privileges and benefits than are received by the classifications of probation officer and chief assistant probation officer, respectively, of the classified service of the County of San Diego.

SEC. 19. Section 74372 of the Government Code is repealed.

SEC. 20. Section 74374 of the Government Code is amended to read:

74374. The hereinafter enumerated classes of positions in the marshal's office of the municipal courts in San Diego County are deemed to be equivalent in job, and salary level, and benefit level to certain classifications in the classified civil service of San Diego County and whenever the salary of a classification in the service of San Diego County is adjusted by the board of supervisors, the salary of the equivalent classification in the marshal's office shall be

adjusted a commensurate number of ranges in the salary schedule. Each of such adjustments shall not be more than 20 percent. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to the county classifications. In the event a system of merit pay increases is established by the County of San Diego for employees in a particular classification, like merit increases, if justified, may be authorized by the appointing authority for marshal's office employees who are in equivalent classifications. Any salary adjustments made as a result of this section shall be effective only until January 1, 1978.

The equivalent classifications are as follows:

Municipal court marshal classification	County classification
Assistant marshal	Deputy sheriff-inspector
Captain	Deputy sheriff-captain
Lieutenant	Deputy sheriff-lieutenant
Sergeant	Deputy sheriff-sergeant
Deputy marshal and deputy marshal—female	Deputy sheriff
Deputy marshal-stenographer	Senior stenographer
Senior typist	Senior clerk typist
Intermediate typist	Intermediate clerk typist
Cadet	Deputy sheriff-cadet
Supervising clerk	Supervising clerk
Junior typist	Junior typist
Secretary II	Secretary II

SEC. 21. Section 74376 of the Government Code is amended to read:

74376. In the event that the number of judges provided for any existing municipal court judicial district in the County of San Diego is increased, or that additional municipal court judicial districts are provided in the County of San Diego, thereby causing an increase in the number of judges, the marshal of the municipal courts may appoint one deputy marshal, and one intermediate typist, each of whom shall receive compensation as specified for their respective classifications, for each additional judge appointed or elected.

SEC. 22. Section 74746 of the Government Code is amended to read:

74746. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he would be entitled under his previous position and shall receive compensation at the step covering such length of service. Thereafter, any

increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (e) of Section 74343.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board.

For purposes of this subdivision only, the clerk and assistant clerk shall receive the same privileges and benefits as are received by the classifications of probation officer and chief assistant probation officer, respectively of the classified service of the County of San Diego.

Such privileges and benefits shall be retroactively applied. The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. The majority of all the municipal court judges may adopt rules for the conduct of the personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended, or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension, or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché shall serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk to a like permanent position in such clerk's office without further examination, qualification or certification on a civil service eligible list, provided, that the number of such positions in the clerk's office has been increased so as to make such temporary position a permanent position.

Official reporters in the Municipal Court of the South Bay Judicial

District appointed pursuant to Section 72194 shall be attachés of such court, and in lieu of any other compensation provided by law for their services in reporting testimony and proceedings in such court shall receive the same monthly salary or per diem as is paid the official reporters of the Municipal Court of the San Diego Judicial District. These salaries shall be a charge against the general fund of the county.

Pursuant to Section 72194, the judges of such court may appoint as many additional reporters as the business of the court may require, who shall be known as official reporters pro tempore, and who shall serve without salary but who shall receive the fees provided by Sections 69947 to 69953, inclusive. In lieu of the per diem fees provided in such sections for reporting testimony and proceedings, the official reporters pro tempore shall in all cases receive the same per diem as is paid the official reporters pro tempore of the Municipal Court of the San Diego Judicial District, which shall be a charge against the general fund of the County of San Diego.

Fees for transcription of testimony and proceedings in such court shall be paid by the litigants to official reporters and official reporters pro tempore unless otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, such fees shall, upon order of the court, be paid from the general fund, including fees for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive.

Official reporters of such court shall be members of any retirement system maintained by the county. For the purpose of such retirement system the salary provided in this article for such reporters shall be deemed their entire compensation.

SEC. 23. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be any appropriation made by this act because this act is in accordance with the request of a local government entity or entities which desired legislative authority to act to carry out the program specified in this act.

CONCURRENT AND JOINT RESOLUTIONS
AND CONSTITUTIONAL AMENDMENTS

1975–76

REGULAR SESSION

1975 RESOLUTION CHAPTERS

RESOLUTION CHAPTER 1

Assembly Concurrent Resolution No. 1—Relative to the selection of the Legislative Counsel of California.

[Filed with Secretary of State December 4, 1974]

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.

RESOLUTION CHAPTER 2

Senate Concurrent Resolution No. 1—Relative to the organizational recess.

[Filed with Secretary of State December 5, 1974]

Resolved by the Senate of the State of California, the Assembly thereof concurring;

First—That following its meeting on December 2, 1974, each house of the Legislature shall be in recess from such time as it determines, but not later than December 6, 1974, and until January 6, 1975;

Second—The desks of the Senate and of the Assembly shall remain open, during such recess, for introduction of bills, during business hours on Monday through Friday, inclusive, except holidays. Bills received at the Senate desk during such periods shall be numbered and printed. After printing, such bills shall be delivered to the Secretary of the Senate and shall be referred by the Committee on Rules to a standing committee. Bills received at the Assembly desk during such periods shall be numbered, referred by the Speaker to a committee, and be printed. After printing, such bills shall be delivered to the Chief Clerk of the Assembly. On the reconvening of each house, the bills shall be read the first time, and shall be delivered to the committee to which they were referred;

Third—That the Secretary of the Senate and the Chief Clerk of the Assembly shall cause to be printed, during the organizational recess, a Senate Daily Journal and Assembly Daily Journal and Senate and Assembly Daily and Weekly Histories.

51 46 12 480 16

RESOLUTION CHAPTER 3

Assembly Concurrent Resolution No. 8—Approving amendments to the Charter of the City of Redondo Beach, State of California, ratified by the qualified electors of the city at a general municipal election held therein on the 10th day of April, 1973.

[Filed with Secretary of State January 8, 1975]

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

State of California
County of Los Angeles } ss
City of Redondo Beach

We, the undersigned, William F. Czuleger, Mayor of the City of Redondo Beach, State of California, and Fred M. Arnold, City Clerk of said city, do hereby certify and declare as follows·

The City of Redondo Beach, in the County of Los Angeles, State of California, was at all times mentioned herein and now is a City of the State of California, existing and acting under a Charter duly adopted and approved under and by virtue of the Constitution of the State of California.

The legislative body of said city on its own motion submitted to the electors of said city, at a general municipal election, to wit, a General Municipal Election, held within said city on the 10th day of April, 1973, certain proposed amendments to the City Charter of said city.

Said proposed amendments were published in the South Bay Daily Breeze, a newspaper having a general circulation in said city, and being the official newspaper of said city, on the 22nd day of February, 1973 and the 1st day of March, 1973, and in each edition thereof on said days, and said publication was made at the time and in the manner prescribed by the Constitution of the State of California.

Said election was duly and regularly held on the 10th day of April, 1973, which said date of the said election was not less than forty nor more than sixty days after the completion of the advertising in said newspaper of said proposed amendments, and at said election a majority of the qualified voters voting thereon voted in favor thereof and did ratify said proposed amendments to said City Charter

Said proposed amendments were duly and regularly submitted to and duly ratified by the said qualified voters of said city, and all and singular requirements of the Constitution and laws of the State of California and the Charter of said city have been complied with.

Said amendments are as follows:

Sections 16.1 and 16.3, Article XVI, are amended to read as follows:

Article XVI

Sec. 16.1 Board members.

The government and control of the public schools shall be vested in the Board of Education, consisting of five (5) members who shall have been residents of the territory included in the Redondo Beach City School District at least two (2) years next preceding the day of their election. They shall be elected at large by the qualified voters of the district and shall serve for a four (4) year term, (except as hereinafter provided for the transition from three year terms to four year terms), without compensation, except necessary expenses contracted when acting as a designated representative of the Board of Education as provided in the Education Code of the State of California.

At the Redondo Beach City School District election held in April of 1974, two members of the Board of Education shall be elected for terms of three years to fill the offices expiring June 30, 1974.

At the Redondo Beach City School District election held in April of 1975, one member of the Board of Education shall be elected for a term of four years to fill the office expiring June 30, 1975.

At the Redondo Beach City School District election held in April of 1976, two members of the Board of Education shall be elected for terms of three years to fill the offices expiring June 30, 1976

At the Redondo Beach City School District election held in April of 1977, two members of the Board of Education shall be elected for terms of four years to fill the offices expiring June 30, 1977.

At the Redondo Beach City School District election held in April of 1979, three members of the Board of Education shall be elected for a term of four years to fill the offices expiring June 30, 1979.

Sec. 16.3 Elections.

The election of members to the Board of Education shall be held in the Redondo Beach City School District on the same date as is provided in the Education Code of the State of California, as it now exists or may later be changed.

School elections shall be held in the same manner as is provided in the Education Code of the State of California, as it now exists or may later be changed. Section 18, Article XVIII, is amended to read as follows:

Article XVIII

Sec. 18. General Municipal Elections.

General Municipal Elections to fill elective offices shall be held in said City on the third Tuesday in April in each odd numbered year beginning with April 1975.

We further certify that the facts set forth in the preamble

preceding said amendments to said Charter, and each of them, are true.

In witness whereof, we have hereunto set our hands and caused the corporate seal of the City of Redondo Beach to be attached on this 1st day of October 1974.

(SEAL)

WILLIAM F. CZULEGER
William F. Czuleger
Mayor of the City of
Redondo Beach,
California

Attest:
FRED M. ARNOLD
Fred M. Arnold
City Clerk of the City
of Redondo Beach,
California

WHEREAS, The proposed amendments to the charter, as adopted and ratified as hereinabove set forth, have been and now are 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of these proposed amendments; 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 Redondo Beach, County of Los Angeles, as proposed to, and adopted and ratified by, the electors of the city as hereinabove fully set forth, 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 Redondo Beach, County of Los Angeles.

RESOLUTION CHAPTER 4

Senate Concurrent Resolution No. 3—Relative to oxides of nitrogen control device violations.

[Filed with Secretary of State February 26, 1975]

WHEREAS, The installation of oxides of nitrogen control devices has been mandated for all 1966 through 1970 model year vehicles in California having a manufacturer's gross vehicle weight rating of under 6,001 pounds in the South Coast Air Basin pursuant to a specified schedule, but is required in the rest of the state only upon

initial registration and upon transfer of ownership and registration of a vehicle; and

WHEREAS, The methods adopted for compliance with the requirement of installation of such devices are different in different parts of the state, thus creating a lack of uniformity in application and enforcement of the requirement; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of the California Highway Patrol be requested not to cite vehicle owners whose vehicles do not comply with the present oxides of nitrogen control device requirements until the Legislature has considered pending remedial legislation regarding oxides of nitrogen control devices; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Commissioner of the California Highway Patrol.

RESOLUTION CHAPTER 5

Assembly Concurrent Resolution No. 21—Approving an amendment to the Charter of the City of Gilroy, State of California, ratified by the qualified electors of the city at a general election held therein on the fifth day of November 1974.

[Filed with Secretary of State January 15, 1975]

WHEREAS, Proceedings have been taken and had for the proposal, adoption, and ratification of an amendment to the Charter of the City of Gilroy, a municipal corporation in the County of Santa Clara, State of California, as hereinafter set forth in the certificate of the mayor and city clerk of the city, as follows:

CERTIFICATE OF PROCEEDINGS HAD BY THE CITY OF GILROY IN AMENDING THE CHARTER

State of California
County of Santa Clara
City of Gilroy

We, the undersigned, Norman B. Goodrich, Mayor of the City of Gilroy, and Susanne E. Steinmetz, City Clerk of the City of Gilroy, do certify and declare as follows:

That the City of Gilroy, a Municipal Corporation in the County of Santa Clara, State of California, now is and at all times herein mentioned was a city containing a population of more than 3,500 and less than 50,000 inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of the State of California;

That the City Council of the said City of Gilroy, on its own motion proposed a charter amendment which it filed in the Office of the

City Clerk on the 3rd day of June, 1974, and ordered that the proposal for the amendment to the charter be submitted to the electors of the said city at a General Election to be held on the 5th day of November, 1974;

That on the 11th day of September, 1974, the proposed charter amendment was published in the Gilroy Dispatch, which is the official newspaper of the City of Gilroy and is a newspaper of general circulation printed and published within the said city;

That the said election called as aforesaid, was duly and legally held on the 5th day of November, 1974, which date was not less than 40 nor more than 60 days after completion of the advertising in the said Gilroy Dispatch, and that at the said election a majority of the qualified voters voting thereon voted in favor of the proposed charter amendment and for the adoption thereof;

That all proceedings for the proposed charter amendment were had in accordance with the provisions of Section 3 of Article XI of the Constitution of the State of California and Sections 34450 et. seq. of the Government Code of the State of California, and of other applicable state and local laws; and

That the charter amendment so ratified by the electors is in the words and figures following:

Section 1400. General Municipal Elections. A general municipal election shall be held on the regular election date established by the Election Code of the State of California, as it now exists or may hereafter be amended, in each odd-numbered year, commencing with the year 1975, for the election of officers and for such other purposes as the Council may prescribe.

We further certify that the foregoing is a full and exact copy of the charter amendment submitted to the Electors, and a true statement of the proceedings had for the adoption of said charter amendment.

NORMAN B. GOODRICH
(SEAL) Mayor of the City of Gilroy
SUSANNE E. STEINMETZ
City Clerk of the City of Gilroy

WHEREAS, The proposed amendment to the 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of the proposed amendment; 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 Gilroy, County of Santa Clara, as

proposed to, and adopted and ratified by, the electors of the city as hereinabove fully set forth, 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 Gilroy, County of Santa Clara.

RESOLUTION CHAPTER 6

Senate Concurrent Resolution No. 12—Relative to the Joint Legislative Committee on Public Domain

[Filed with Secretary of State January 17, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring. As follows:

1. The Joint Legislative Committee on Public Domain is hereby created to continue the activities of the predecessor, Joint Legislative Committee on Public Domain Any acts taken by or in the name of the predecessor committee between January 1, 1975, and the effective date of this resolution are hereby ratified, confirmed, and validated.

2. The committee is hereby authorized and directed to ascertain, study, and analyze all facts relating to the best use of the revenues which now or in the future accrue from the development of the tide and submerged lands held in trust, to meet the financial needs of the State of California and the trust provisions as outlined in the tideland grants, including but not limited to the operation, effect, administration, enforcement and needed revision of any and all laws in any way bearing upon or relating thereto, and to report thereon to the Legislature, including in the reports its recommendations for appropriate legislation.

The committee's study shall take into account, among other things, the requirement set forth in grants of tide and submerged lands that such lands shall be used only for a specific purpose such as the establishment, improvement and conduct of a harbor, airport or other facilities for the promotion and accommodation of commerce and navigation; that the granted lands shall be improved by the grantee without expense to the State of California and that facilities developed thereon remain open to the public for all purposes of commerce and navigation; the financial requirements of the grantee to meet its obligation to improve said lands; that the State of California has the right to use the granted lands without charge for certain purposes; protection of the natural beauty of the area and the public health and safety; the use of proceeds for the wise and adequate development, maintenance and operation of the trust lands, and the provision of adequate financial reserves and safeguards to cover any unforeseen problems that might arise in connection with the trust development in the future.

3. The committee is further authorized and directed to review public land management policies of other states and propose to the Legislature model methods of public land management.

4. The committee shall consist of five Members of the Senate appointed by the Committee on Rules thereof, and five Members of the Assembly appointed by the Speaker thereof. Vacancies occurring in the membership of the committee shall be filled by the appointing power.

5. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time at this session, which provisions are incorporated herein and made applicable to this committee and its members.

6. The committee and its members are authorized to study and inventory lands and rights therein owned or administered by the state, determine the uses to which these lands and rights are currently being put, prepare an analysis of the projected uses of such lands, and devise a system of automatic inventory and reporting of the uses of state lands.

7. In addition to the foregoing, the committee and its members shall study the potential state benefit from mineral resources on state-owned lands and the extent to which such lands may be disposed of and returned to the tax rolls.

8. In addition to the foregoing, the committee and its members shall study the problems involved with the providing of access to wilderness and park areas in the public domain.

9. In addition to the foregoing, the committee and its members shall determine whether the state is receiving a fair price for the state's mineral deposits.

10. Any power or duty now or hereafter assigned to the committee with respect to mineral resources shall include, but not be limited to, geothermal resources.

11. The committee has the following additional powers and duties:

(a) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee.

(b) To contract with such other agencies or individuals, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the committee as will best assist it to carry out the purposes for which it is created.

(c) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution

(d) To report its findings and recommendations to the Legislature not later than July 1, 1975.

12. The committee shall continue to function until July 1, 1975, and

on such date shall cease to exist.

13. The sum of forty thousand seven hundred dollars ($40,700), or so much thereof as may be necessary, is hereby made available from the Contingent Funds of the Assembly and Senate for the expenses of the committee and its members; provided that, in accordance with Joint Rule 36.8, any such expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 7

Assembly Concurrent Resolution No. 7—Relative to the death of Assemblyman Carlos Bee.

[Filed with Secretary of State January 20, 1975]

WHEREAS, The Members of the Legislature were deeply saddened to learn of the sudden passing of their esteemed colleague and friend, Carlos Bee; and

WHEREAS, A native of Berkeley, Carlos attended public schools and graduated from the University of California at Santa Barbara in 1940; and

WHEREAS, After two years of graduate work at the University of California at Berkeley, and military service during World War II, he joined the faculty of the Hayward Unified School District in 1946; and

WHEREAS, While still teaching at Hayward High School, he successively became a Hayward city councilman in 1948 and later mayor, before his election to the State Assembly in 1954; and

WHEREAS, During his 20 years of outstanding service in the Assembly, Carlos authored many important pieces of legislation, particularly in the areas of education, recreation, and highways; and

WHEREAS, Carlos will perhaps best be remembered for his outstanding accomplishments as Speaker pro Tempore of the Assembly, a post he held for 14 years—longer than any person in history; and

WHEREAS, Carlos was widely known for his sharp wit and ability to get along with legislators of both parties; his wit being credited with breaking the tension when bitter disagreement jammed the legislative process; and

WHEREAS, Assemblyman Carlos Bee will be sorely missed by all who knew him, and he will be long remembered for his contributions to the Legislature, to his constituents, and to the people of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Members of the Legislature hereby express their deep sorrow at the passing of Assemblyman Carlos Bee, and extend their sincere condolences to his widow, Jean, and to his

children, Diane Elizabeth Murphy, Rita Cecelia Bee, Carla Jean Bee, Lori Marie Bee, and Allan Carlos Bee; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Mrs. Jean Bee, widow of Assemblyman Carlos Bee, and to each of his children.

RESOLUTION CHAPTER 8

Assembly Concurrent Resolution No. 24—Approving amendments to the Charter of the County of San Diego, State of California, ratified by the qualified electors of the county at a general election held therein on the fifth day of November, 1974.

[Filed with Secretary of State January 28, 1975]

WHEREAS, Proceedings have been taken and had for the proposal, adoption, and ratification of amendments to the Charter of the County of San Diego, State of California, as hereinafter set forth in the certificate of the chairman and clerk of the board of supervisors of the county, as follows:

CERTIFICATE OF CHAIRMAN OF THE BOARD OF SUPERVISORS AND CLERK OF THE BOARD OF SUPERVISORS

WHEREAS, The County of San Diego, State of California, has been at all times herein mentioned, and now is, a body politic, and a political subdivision of the State of California, and is now and has been, since the first day of July 1933, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of Sections 3 and 4 (formerly Section 7½) of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said county at a general election held for that purpose on November 8, 1932, and approved by the Legislature of the State of California, on January 17, 1933, and filed in the office of the Secretary of State on January 17, 1933; and

WHEREAS, The Board of Supervisors of said county, pursuant to the provisions of said Sections 3 and 4 of Article XI of said Constitution and Article 2 (commencing with § 23720) and Article 3 (commencing with § 23730) of Chapter 5, Division 1, Title 3 of the Government Code, did by resolutions and orders adopted on July 23, 1974, duly propose to the qualified electors of said County of San Diego, amendments to the Charter of said county, designated on the ballot as County Propositions C, D, E and F, and ordered that said amendments be submitted to said qualified electors of said county at special elections consolidated with the general election to be held in said county on November 5, 1974, which date was fixed by law as the date for holding said general elections; and

WHEREAS, Said proposed amendments to the Charter of the County of San Diego were published for ten times in the San Diego Union, a daily newspaper of general circulation, printed, published and circulated in said county, on August 4 through August 13, 1974; and

WHEREAS, Said election on these Charter amendments was duly called by the Board of Supervisors of said county by Ordinance No. 4371 (New Series) adopted August 20, 1974, which ordinance, prior to the election was published five times on September 3, 4, 5, 6 and 7, 1974, in the San Diego Union, a daily newspaper printed, published and circulated in San Diego County; and

WHEREAS, Said elections were held in said County of San Diego on November 5, 1974, which said day was the next established election date, not less than 74 days after said proposed amendment to said charter had been published for ten times in said San Diego Union; and

WHEREAS, Thereafter the returns of said election held in the County of San Diego on November 5, 1974, at which said election said proposals were duly submitted to the vote of the qualified electors of said county, were made to and canvassed by the Registrar of Voters of the County of San Diego, and by said officer certified to the Clerk of the Board of Supervisors of said county, and said Clerk of the Board of Supervisors did on December 9, 1974, duly enter on the Records of said Board of Supervisors a statement of the results of said canvass of said election in the form and manner prescribed by law; and

WHEREAS, At said election held on November 5, 1974, said proposed amendments to the Charter of the County of San Diego were ratified by a majority of the electors of said county voting thereon; and

WHEREAS, Said charter amendments so ratified by the electors of said County of San Diego are now submitted to the Legislature of the State of California for approval or rejection as a whole, without power of alteration or amendment, pursuant to the provisions of said Sections 3 and 4 of Article XI of the Constitution of the State of California, and Section 23723 of the Government Code, and are in words and figures as follows, to wit:

COUNTY PROPOSITION C

Proposed amendment of the Charter of the County of San Diego to amend Section 53, to repeal Sections 51, 52 and 54 and to add Section 54 relating to public health, medical institutions and medical services advisory bodies

First, that Section 53 of said Charter be amended to read:

Section 53. The Board of Supervisors shall create a Department of Public Health.

Second, that Sections 51, 52 and 54 of said Charter be repealed.

Third, that Section 54 be added to said Charter to read:

Section 54. The Board of Supervisors shall establish, by ordinance, a citizens advisory body to advise and make recommendations to the Board on matters relating to public health, medical institutions and medical services and to perform such other functions as the Board deems appropriate. Such body shall be representative of the entire county. In selecting the body, the Board of Supervisors shall consider, among other things as they may determine, the qualifications, race, age, sex and geographical location of residence of the member. The duties of such advisory body may be consolidated with the duties of another citizens advisory body and having once been consolidated may be separated. The Board may provide for the compensation of the members of such body and for payment of their actual, necessary expenses.

COUNTY PROPOSITION D

Proposed amendment of the Charter of the County of San Diego to repeal Sections 48, 49 and 50 and to add Section 48 relating to public welfare, social services and public assistance advisory bodies

First, that Sections 48, 49 and 50 of said Charter be repealed.

Second, that Section 48 be added to said Charter to read:

Section 48. The Board of Supervisors shall establish, by ordinance, a citizens advisory body to advise and make recommendations to the Board on matters relating to social services and public assistance and to perform such other functions as the Board deems appropriate. Such body shall be representative of the entire county. In selecting the body, the Board of Supervisors shall consider, among other things as they may determine, the qualifications, race, age, sex and geographical location of residence of the member. The duties of such advisory body may be consolidated with the duties of another citizens advisory body and having once been consolidated may be separated. The Board may provide for the compensation of the members of such body and for payment of their actual, necessary expenses.

COUNTY PROPOSITION E

Proposed amendment of the Charter of the County of San Diego to amend Sections 34.3, 34.4 and 36 relating to responsibilities of the Controller, and to budgets

First, that Section 34.3 of said Charter be amended to read:

Section 34.3. The Controller shall periodically prepare a statement for each reporting period showing such information with respect to the financial condition of each budget appropriation and the condition of estimated revenues as the Board of Supervisors requires. The statement shall be detailed as to assets, liabilities,

revenue, expenditures and appropriations and the unencumbered balance in such a manner as to show the financial condition of the County and of each fund and budget unit thereof for that portion of the fiscal year to and including the end of that reporting period. The statement shall also show the cash position of the County in each fund as of the last day of that reporting period. A copy of each statement shall be filed by the Controller with the Board of Supervisors and with such other officials or persons as the Board of Supervisors may designate not later than the 20th day following the end of the reporting period. Reporting periods shall not be longer than one month and shall be prescribed by the Board of Supervisors in the Administrative Code.

Second, that Section 34.4 of said Charter be amended to read:

Section 34.4. The Controller shall audit the accounts of all County, and judicial district officers, boards, commissions and employees charged in any manner with the custody, collection or disbursement of public or other funds. The Controller shall audit monthly all accounts and moneys coming into the hands of the County Treasurer. He shall make an audit of each public officer's revolving fund at least once each fiscal year.

When requested by the Board of Supervisors or any officer, board or commission for its own department, he shall audit the accounts of any such officer or department. On the death, resignation, removal, expiration of term or retirement of the head of any department or office, or any officer or employee charged with the receipt, collection or disbursement of public funds, he shall forthwith make an audit of the accounts of such department, officer or employee, and file copies of his report of such audit with the County Clerk and the Board of Supervisors. If an elective officer is elected to succeed himself and qualifies, the required expiration of term audit may be omitted by the Controller, provided that the audit of that officer's accounts is made not later than the succeeding fiscal year.

Third, that Section 36 of said Charter be amended to read:

Section 36. The budget for the County shall be prepared and adopted according to the procedures and in the manner prescribed by general law.

COUNTY PROPOSITION F

Proposed amendment of the Charter of the County of San Diego to amend Section 60 and repeal Section 61 relating to recall of county officers

First, that Section 60 of said Charter be amended to read:

Section 60: The recall provisions of the Constitution and general laws of the State of California shall be applicable to county elective officers.

Second, that Section 61 of said Charter be repealed.

State of California }
County of San Diego } ss

We, the undersigned, Lou Conde, Chairman of the Board of Supervisors of the County of San Diego, State of California, and Proter D. Cremans, Clerk of the Board of Supervisors of said County of San Diego, do hereby certify:

That the foregoing proposed and ratified amendments to the Charter of said County of San Diego, submitted to the electors of said county at the general election held in said county on November 5, 1974, have been compared by us, and each of us, with the proposed amendments set forth in the resolutions adopted by said Board of Supervisors as hereinbefore set forth, and that the foregoing are full, true, correct and exact copies thereof, and we further certify that the facts set forth in the preamble preceding said amendment to said charter are, and each of them is, true.

In witness whereof we have hereunto set our hands and caused the same to be authenticated by the seal of the said Board of Supervisors of the County of San Diego this 18th day of December, 1974.

(SEAL)

LOU CONDE
Lou Conde, Chairman of the Board of Supervisors of the County of San Diego, State of California
PORTER D. CREMANS
Porter D. Cremans, Clerk of the Board of Supervisors of the County of San Diego, State of California

Attest:
Jesse Osuna
County Clerk of the County of
San Diego, State of California

(SEAL)

WHEREAS, The proposed amendments to the charter, as adopted and ratified as hereinabove set forth, have been and now are 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of these proposed amendments; 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 County of San Diego, as proposed to, and adopted and ratified by, the electors of the county as hereinabove fully set forth, are hereby approved as a whole, without alteration or

amendment, for and as amendments to, and as part of, the Charter of the County of San Diego.

RESOLUTION CHAPTER 9

Assembly Concurrent Resolution No. 25—Approving the Charter of the City of Cypress, State of California, ratified by the qualified electors of the city at a general election held therein on the fifth day of November 1974.

[Filed with Secretary of State January 28, 1975]

WHEREAS, Proceedings have been taken and had for the proposal, adoption, and ratification of the Charter of the City of Cypress, 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:

CHARTER

CITY OF CYPRESS

We, the People of the City of Cypress, State of California, do ordain and establish this Charter as the organic law of the City under the Constitution of the State of California.

Article I
Incorporation and Succession

Section 100. Name and Boundaries. The City of Cypress, hereinafter termed the City, shall continue to be a municipal corporation under its present name, "City of Cypress". The boundaries of the City shall be as established at the time this Charter takes effect, or as they may be changed thereafter in the manner authorized by law.

Section 101. Rights and Liabilities of the City. The City 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 be subject to all its legally enforceable debts, obligations, liabilities, and contracts.

Section 102. Ordinances, Codes and Other Regulations. All ordinances, codes, resolutions, regulations, or portions thereof, in force at the time this Charter takes effect, and not in conflict or inconsistent herewith, shall continue in force until they shall have been duly repealed, amended, changed, or superseded by proper authority as provided herein.

Section 103. Officers and Employees. Subject to the provisions of this Charter, the present officers and employees shall continue to

perform the duties of their respective offices and employments without interruption and for the same compensations and under the same conditions until the election or appointment and qualification of their successors and subject to such removal and control as herein provided.

Section 104. Effective Date of Charter. This Charter shall take effect upon its approval by the Legislature of the State of California, or as otherwise provided by law.

Article II
Powers of City

Section 200. Powers. The City shall have all powers possible for a City to have under the Constitution and laws of the State of California as fully and completely as though they were specifically enumerated in this Charter. Specifically, but not by way of limitation, 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 and in the Constitution of the State of California. It shall also have the power to exercise any and all rights, powers and privileges 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. The enumeration in this Charter of any particular power, duty or procedure shall not be held to be exclusive of, or any limitation or restriction upon, this general grant of power.

Section 201. Intergovernmental Relations. The City may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more cities, counties, states, or civil divisions or agencies thereof, or the United States or any agency thereof.

Article III
Form of Government

Section 300. Form of Government. The municipal government established by this Charter shall be known as the "Council-Manager" form of government.

Article IV
The City Council

Section 400. City Council. The City Council, hereinafter termed "Council", shall consist of five Councilmen elected to office from the City at large in the manner provided in this Charter. The term of office shall be four years. Alternatively, and successively, three four-year terms shall be filled at one general municipal election

and two four-year terms at the next such election, consistent with the sequence of terms of Councilmen existing on the effective date hereof. The term of a Councilman shall commence on the first Tuesday following his election and he shall serve until his successor qualifies. Any ties in voting shall be settled by the casting of lots.

Each Councilman in office at the time this Charter takes effect shall continue in office until the end of the term for which he was elected or appointed.

Section 401. Eligibility. No person shall be eligible to hold the office of Councilman unless he is a legally registered voter and resident of the City.

Section 401. Compensation. Compensation for Councilmen is hereby set, and from time to time shall be changed, in accordance with the schedule applicable to the City of Cypress set forth in the provisions of the Government Code relating to salaries of councilmen in general law cities. Such compensation may be increased or decreased by an affirmative vote of a majority of the voters voting on the proposition at any election.

Section 403. Vacancies, Forfeiture of Office. Filling of Vacancies.

(a) A vacancy shall exist on the Council, and shall be declared by the Council, if a Councilman resigns, is legally removed, dies, or forfeits his office.

(b) A Councilman shall forfeit his office if he (1) lacks at any time while holding office any qualification for election prescribed by this Charter or by law, (2) violates any provision of this Charter, (3) is convicted of a crime involving moral turpitude, (4) without consent of the Council is absent from all regular Council meetings for a period of sixty consecutive days and the first regular meeting thereafter, said period to be computed from the last regular Council meeting he attends. A declaration by the Council of a vacancy resulting from forfeiture of office shall be subject to judicial review, provided that within two weeks after such declaration an appropriate action, or proceeding, for review is filed in a court having jurisdiction of the action or proceeding. During the pendency of any such action or proceeding, anyone appointed by the Council to fill such vacancy shall have all the rights, duties, and powers of a Councilman, and shall continue in such office as provided herein unless and until said court rules the declaration of the Council invalid and such ruling has become final.

(c) Any vacancy on the Council shall be filled by a majority vote of the remaining Councilmen within thirty days after the vacancy occurs. If more than one vacancy exists, successive appointments shall be made, and each appointee shall participate in any succeeding appointment. If the Council fails, for any reason, to fill such vacancy within said thirty-day period, it shall forthwith call an election for the earliest possible date to fill such vacancy. A person appointed by the Council to fill a vacancy shall hold office until the next general municipal election and until his successor qualifies. A Councilman elected to fill a vacancy shall hold office for the remainder of the

unexpired term.

Section 404. Mayor—Mayor Pro Tempore. By the affirmative votes of not less than three Councilmen, the Council shall elect one of its members as Mayor, and one of its members as Mayor Pro Tempore, upon the following occasions:

(a) In even numbered years, at the regular Council meeting held for the purpose of canvassing the results of the general municipal election; and

(b) In odd numbered years, at the second regular Council meeting held during the month of March; or

(c) At such other times as a majority of the Council shall so order.

The Mayor shall preside at Council meetings. He shall be the chief official of the City for all ceremonial purposes. He shall perform such other duties consistent with his office as may be prescribed by the Council. The Mayor Pro Tempore shall perform the duties of the Mayor during his absence or disability.

Neither the Mayor nor Mayor Pro Tempore shall be deprived of any of the rights of Councilmen by reason of his acting as Mayor or Mayor Pro Tempore.

Section 405. Powers Vested in the Council. All powers of the City shall be vested in the Council except as otherwise provided in this Charter

Section 406. Prohibitions.

(a) No Councilman shall hold any other City office or City employment, and no former Councilman shall hold any compensated City office or City employment until two years after leaving the office of Councilman.

(b) Neither the Council nor any of its members shall interfere with the execution by the City Manager of his powers and duties, or order, directly or indirectly, the appointment by the City Manager or by any of the departmental officers in the administrative service of the City, of any person to an office or employment or his removal therefrom. Except for the purpose of inquiry, the Council and its members shall deal with the administrative service under the City Manager solely through the City Manager and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager, either publicly or privately.

Section 407. Regular Meetings of the Council. The Council shall hold regular meetings at least once each month at such times as it shall fix by ordinance or resolution. At any time a regular meeting falls on a holiday, such meeting shall be held on the next business day.

Section 408. Special Meetings. Special meetings may be called at any time in the manner prescribed by the general laws of the State.

Section 409. Adjourned Meetings Any regular adjourned regular, special, or adjourned special meeting may be adjourned to a time and place specified in the order of adjournment. Any adjourned regular meeting is a regular meeting for all purposes.

Section 410. Quorum. Subject to other provisions of this Charter, three Councilmen shall constitute a quorum to do business, but a lesser number may adjourn from time to time or compel the attendance of other Councilmen in such a manner and under such penalties as the Council may have provided. Except as otherwise provided herein, all Council actions shall be by majority vote of those members present and voting.

Section 411. Open Meetings. Ralph M. Brown Act. All meetings of the Council shall be open to the public, provided the Council may adjourn to an executive session as provided by law.The provisions of the Ralph M. Brown Act, commencing with Section 54950 of the Government Code, shall apply to all meetings of the Council.

Section 412. Place of Meetings. All Council meetings shall be held in the Council Chamber of the City Hall, or in a place to which any meeting may be adjourned. If, by reason of fire, flood, or other emergency, it shall be unsafe to meet in the Council Chamber, the meetings may be held for the duration of the emergency at a place designated by the Mayor, or if he should fail to act, by three members of the Council.

Section 413. Proceedings. The Council shall cause the City Clerk to keep a correct record of all its proceedings. The Council may establish rules for the conduct of its proceedings. It may evict any member or other person for disorderly conduct at any of its meetings. Each member of the Council shall have the power to administer oaths and affirmations in any proceeding pending before the Council. The Council shall have the power 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, signed by the Mayor, and attested by the City Clerk. Disobedience of such subpoenas, or the refusal to testify, shall constitute a misdemeanor; the Mayor shall report such disobedience to a judge of a court of competent jurisdiction for further proceedings.

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 414. Citizen Participation. Subject to the rules governing the conduct of Council meeting, any citizen, personally or through counsel, shall have the right to present grievances at any regular meeting of the Council, or offer suggestions for the betterment of municipal affairs.

Section 415. Adoption of Ordinances and Resolutions. With the exception of ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the Council on the day of its introduction, nor within five days thereafter. 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 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. In the event that any ordinance is altered after its introduction, it shall not be finally adopted except at a meeting held not less than five days after the date upon which such ordinance was altered. Correction of a typographical or clerical error shall not constitute an alteration within the meaning of the foregoing sentence.

Unless otherwise required by this Charter, the affirmative votes of at least three Councilmen 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 Council to be necessary as an emergency measure for preserving 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 it is passed by at least four affirmative votes.

Section 416. Ordinances. Publication. The City Clerk shall cause each ordinance to be published at least once in the official newspaper within fifteen days after its adoption; provided, however, that when the publication of an ordinance would not otherwise be required by the general laws of the State, the Clerk shall post the ordinance in at least three public places in the City in lieu of such publication.

Section 417. Adoption of Codes by Reference. Detailed regulations, pertaining to any subject, when arranged as a comprehensive code may be adopted by reference by the passage of an ordinance for such purpose. Such code need not be published in the manner required for the enactment of ordinances. Copies of any adopted code of regulations shall be made available for purchase at a reasonable price.

Section 418. The Cypress City Code. The Code of the City of Cypress may be amended, repealed, or added to in whole or in part by ordinance. Said Code may be rearranged and renumbered and thereupon adopted by reference in the same manner as set forth in Section 417, above.

Section 419. Ordinances. When Effective. An ordinance shall become effective on the thirty-first day after its adoption, or at any later date specified therein, except the following, which shall take effect upon adoption:

(a) An ordinance calling or otherwise relating to an election.

(b) An ordinance declaring the amount of money necessary to be raised by taxation, fixing the rate of taxation, levying the annual tax upon property, or levying any other tax.

(c) An emergency ordinance adopted in the manner provided for in this Chapter.

Section 420. Publishing of Legal Notices. Prior to the beginning of each fiscal year, the Council shall solicit bids and contract for

the publication of all legal notices or other matter required to be published in a newspaper of general circulation, during the ensuing fiscal year. If there is only one newspaper of general circulation printed and published in the City, then the Council shall have the power to contract with such newspaper for the publishing of such legal notices and other matter without soliciting bids therefor. The newspaper with which the Council so contracts shall be deemed to be the official newspaper.

If there is no newspaper of general circulation in the City, or, if such a newspaper will not contract with the City at rates which do not exceed those charged private persons, and the Council has not designated an official newspaper, then such notices and other matter, and notices required to be published in the official newspaper may be published by posting copies thereof at three or more public places in the City as designated by the Council.

No defect or irregulatiry 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.

Article V
City Clerk

Section 500. City Clerk. There shall be a City Clerk who shall be appointed by and serve at the pleasure of the Council.

Section 501. Powers and Duties. The City Clerk shall:

(a) Attend all meetings of the Council and be responsible for the recording and maintaining of a full and true record of all of the proceedings of the Council in books that shall bear appropriate titles 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 document stating that said document is the original or a correct copy, and with respect to an ordinance, stating that said ordinance has been published or posted in accordance with this Charter; all of said books shall be properly indexed and open to public inspection when not in actual use.

(c) Maintain separate books, in which a record shall be made of all written contracts and official bonds.

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

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

(f) Conduct all City elections.

(g) Perform such other duties as may be prescribed by the Council.

Article VI
City Manager

Section 600. City Manager. Selection and Qualifications. There shall be a City Manager who shall be the chief administrative officer of the City. The Council shall appoint the person who it believes to be best qualified on the basis of his executive and administrative qualifications, with special reference to his experience in, and his knowlege of, accepted practice in respect to the duties of the office as set forth in this Charter.

The City Manager shall engage in no other business or occupation except as may be permitted by the affirmative vote of four members of the Council. He shall establish his residence within the City within ninety days after his appointment, unless such period is extended by the Council, and thereafter maintain his residence within the City during his tenure of office.

The affirmative vote of a majority of the members of the Council shall be required to remove the City Manager from office, provided the City Manager shall not be removed by the Council within 90 days after a councilmanic election. The Council may by ordinance adopt procedures for the removal of the City Manager from office.

Section 601. City Manager. Powers and Duties. The City Manager shall be responsible to the Council for the proper administration of all affairs of the City. Without limiting the foregoing general grant of powers, responsibilities and duties, the City Manager, subject to the provisions of this Charter and any regulations adopted pursuant thereto, shall:

(a) Appoint and remove administrative officers, except those appointed by the Council, and when he deems it necessary for the good of the service suspend or remove any employee.

(b) Direct and supervise the administration of all departments, offices and agencies of the City.

(c) Prepare and submit the annual budget and capital program to the Council, and be responsible for administration of the annual budget and capital program after its adoption.

(d) Prepare and submit to the Council as of the end of the fiscal year a comprehensive report on the finances and administrative activities of the City for the preceding year.

(e) Make such other reports as the Council may require concerning the operations of City departments, offices and agencies subject to his direction and supervision.

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

(g) Prepare rules and regulations governing the contracting for, purchasing, storing, 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 Council for adoption.

(h) See that all laws, provisions of this Charter and acts of the Council, subject to enforcement by him or by officers subject to his direction and supervision, are faithfully executed.

(i) Perform such other duties as may be prescribed by the Council.

Section 602. Manager Pro Tempore. The City Manager shall appoint, subject to the approval of the Council, one of the other officers of the City to serve as Manager Pro Tempore during any temporary absence or dssability of the City Manager. During such absence or disability, the Council may revoke such designation at any time and appoint another officer of the City to serve until the Manager shall return or his disability shall cease.

Article VII
Officers and Employees

Section 700. Administrative Departments.

(a) The Council may establish City departments, offices or agencies in addition to those created by this Charter and may prescribe the functions of all departments, offices, and agencies, except that no function assigned by this Charter to a particular department, office, or agency may be discontinued or, unless this Charter specifically so provides, assigned to any other.

(b) Except as otherwise provided by this Charter, all departments, offices, and agencies under the direction and supervision of the City Manager shall be administered by an officer appointed by and subject to the direction and supervision of the Manager. With the consent of the Council, the Manager may serve as the departmental administrator of one or more such departments, offices, or agencies or may appoint one person as the departmental administrator of two or more of them.

(c) The Council may provide for the number, titles, qualifications, powers, duties, and compensation of all officers and employees.

(d) All appointments and promotions of City officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

Section 701. City Attorney. Powers and Duties. There shall be a City Attorney who shall be appointed and subject to removal by a majority vote of the entire Council. Under the administrative direction of the City Manager, he shall serve as chief legal adviser to the Council, the City Manager, and all City departments, offices, and agencies; he shall represent the City in all legal proceedings and shall perform such other duties as may be prescribed by the Council.

Section 702. Director of Finance. There shall be a Director of Finance who shall:

(a) Have charge of the administration of the financial affairs of the City under the direction of the City Manager.

(b) Compile the budget expense and income estimates and supply data for the capital program as requested by the City Manager.

(c) Maintain a general accounting system 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 and, with the advice of the City Attorney, when necessary, determine the regularity, legality, and correctness of such claims, demands, or charges.

(e) Supervise the collection, receipt, and the deposit of all moneys payable to the City in a depository designated by the Council or by the City Manager, if the Council has not acted, and in compliance with all applicable laws.

(f) Submit a complete financial statement and report at the end of each fiscal year.

(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 as may be prescribed by the Council.

Section 703. Treasurer. There shall be a Treasurer who shall be appointed and may be removed by the Council. The Treasurer shall perform those duties required by law, assigned by the Director of Finance, and those provided by ordinance or resolution.

Section 704. Planning Director. There shall be a Director of Planning who shall:

(a) Advise the City Manager on any matter affecting the physical development of the City.

(b) Formulate and recommend to the City Manager modifications of the City's general plan.

(c) Review and make recommendations regarding proposed Council action implementing the general plan.

(d) Participate in the preparation and revision of the Capital Program.

(e) Advise the City Planning Commission in the exercise of its responsibilities and in connection therewith provide necessary staff assistance.

(f) Perform such other duties as may be prescribed by the Council.

Section 705. Departmental Administrators. Appointive Powers. Each departmental administrator shall have the power to appoint, supervise, suspend, or remove such assistants, deputies, subordinates, and employees as are provided for by the council for his department, subject to approval of the City Manager and subject to the civil service provisions of the City and the rules and regulations promulgated thereunder.

Section 706. Personal Financial Interest. Except as permitted by the Government Code, any City officer or employee who has a financial interest in any contract with the City or in the sale of any land, materials, supplies, or services to the City or to a contractor

supplying the City shall make known that interest and shall refrain from voting upon or otherwise participating in or influencing the making of such sale or the making or performance of such contract. Any City officer or employee who willfully conceals such a financial interest or willfully violates the requirements of this section shall be guilty of malfeasance in office or position and shall forfeit his office or position. Violation of this section with the knowledge, express or implied, of the person or corporation contracting with or making a sale to the City shall render the contract or sale voidable by the City.

Section 707. Administering Oaths. Each departmental administrator and such of his deputies as he may designate shall have the power to administer oaths and affirmations in connection with any official business pertaining to his department.

Section 708. Official Bonds. The Council shall fix by ordinance or resolution the amounts and terms of the official bonds of all officers or employees who are required by ordinance or resolution to give such bonds. All bonds shall be executed by a 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.

There shall be no personal liability upon, or any right to recover against, a superior officer, or his bond, for any wrongful act or omission of his subordinate, unless such superior officer was a party to, or conspired in, such wrongful act or omission.

Article VIII
Boards and Commissions

Section 800. In General. The boards and commissions heretofore established by the Council shall continue to exist and exercise the powers and perform the duties conferred upon them; provided, however, that the Council may by ordinance abolish any and all of said boards and commissions and may alter the structure, membership, powers and duties thereof.

In addition, the Council may create by ordinance such other boards or commissions as in its judgment are required and may grant to them such powers and duties as are not inconsistent with the provisions of this Charter.

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

Section 802. Appointments. Terms. The number of members of boards and commissions shall be specified by the Council. Except as otherwise provided by ordinance, each member of each board or commission shall be appointed for a term of four years and shall serve until his successor qualifies. All such appointments shall be made, and appointees shall be subject to removal, by motion of the Council adopted by at least three affirmative votes. In the event an incum-

bent is removed or otherwise vacates his office, his successor shall be appointed for the unexpired term of said office.

Section 803. Existing Membership. 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 are appointed and qualify.

Section 804. Meetings. Chairmen. 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 as presiding officer, and another as chairman pro tempore, to serve at the pleasure of such board or commission. Each board or commission shall hold regular meetings as the Council may require, and such special meetings as otherwise may be necessary. The provisions of Section 411, hereof, relating to the Ralph M. Brown Act, shall apply to all meetings of said boards and commissions and, subject to the provisions of said Act, all meetings shall be open to the public.

The City Manager may designate a City employee for the recording of minutes for each of such boards and commissions, who shall keep a record of its proceedings and transactions. Each board or commission may prescribe its own procedures and rules of operation which shall be kept on file in the office of the City Clerk where they shall be available for public inspection. Subject to any regulations and procedures established by the Council, each board or commission shall have the power to compel the attendance of witnesses, to examine them under oath, to compel the production of evidence before it, and to administer oaths and affirmations. Disobedience of any subpoena, or refusal to testify shall be a misdemeanor and such conduct shall be reported to the Mayor and procedures may be taken pursuant to Section 413, hereof.

Section 805. Compensation. Vacancies. The members of boards and commissions shall receive such compensation as may be specified by the Council and shall also receive reimbursement for necessary traveling and other expenses incurred on official duty when such expenditures have receive authorization by the Council.

Any vacancy in any board or commission, from whatever cause arising, shall be filled by appointment by the Council. Any appointment to fill such vacancy shall be for the unexpired portion of such term.

If a member of a board or commission is absent from three consecutive regular meetings of such board or commission, unless by permission of such board or commission expressed in its official minutes, is convicted or a crime involving moral turpitude, ceases to be a resident of the City, his office shall become vacant and shall be so declared by the Council.

Article IX
Elections

Section 900. General Municipal Elections. General municipal elections for the election of officers and for such other purposes as the Council may prescribe shall be held in the City on the day designated by the Legislature for general municipal elections in general law cities.

Section 901. Special Municipal Elections. Other municipal elections shall be known as special municipal elections and may be called from time to time by the Council.

Section 902. Procedure for Holding Elections. Unless otherwise provided by ordinance hereafter enacted, all elections shall be held in accordance with the provisions of the Elections Code of the State of California for the holding of municipal elections, so far as the same are not in conflict with this Charter.

Section 903. Initiative, Referendum and Recall. There are hereby reserved to the voters of the City the power of the initiative and referendum and of the recall of municipal elective officers. The provisions of the Elections Code of the State of California governing the initiative and referendum and the recall of municipal officers shall apply so far as the same are not in conflict with this Charter.

Article X
Fiscal Administration

Section 1000. 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. The Council may by ordinance change the fiscal year.

Section 1001. Submission of Budget and Budget Message. On or before the thirty-first day of May of each year, or at such other time as the Council may prescribe, the Manager shall submit to the Council a budget for the ensuing fiscal year and an accompanying message.

The Manager's message shall explain the budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position, and include such other material as the Manager deems desirable.

Section 1002. Budget. The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year and, except as required by law or this Charter, shall be in such form as the Manager deems desirable or the Council may require. In organizing the budget the Manager shall utilize the most feasible combination of expenditure classification by fund, organization unit,

program, purpose or activity, and object.

Section 1003. Capital Program. As used in this section a capital improvement shall mean an improvement with an estimated cost in excess of $10,000 and a probable life in excess of ten years, or such other improvement as may be specified by the Council.

(a) The Manager shall prepare and submit to the Council a five-year capital program at least one month prior to the final date for submission of the budget or such other time as the Council may prescribe.

(b) The capital program shall include:

1. A clear general summary of its contents;

2. A list of all capital improvements which are proposed to be undertaken during the five fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

3. Cost estimate, method of financing and recommended time schedules for each such improvement; and

4. The estimated annual cost of operating and maintaining the facilities to be constructed or acquired.

The above information may be revised and extended each year with regard to capital improvements still pending or in process of construction or acquisition.

Section 1004. Council Action on Budget. The Council shall consider the proposed budget and make any revision thereof that it may deem advisable; and on or before July 1 it shall adopt the budget. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated. If it fails to adopt the budget by said date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the Council adopts a budget for the ensuing fiscal year.

Section 1005. Council Action on Capital Program. The Council by resolution shall adopt the capital program with or without amendment on or before the first day of July of each year, or at such other time as the Council may designate.

Section 1006. Public Records. Copies of the budget and the capital program as adopted shall be public records and shall be made available to the public at suitable places in the City.

Section 1007. Amendments After Adoption.

(a) If during the fiscal year the Manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the Council by resolution may make supplemental appropriations for the year up to the amount of such excess.

(b) If at any time during the fiscal year it appears probable to the Manager that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Council without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be

taken. The Council shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolution reduce one or more appropriations.

(c) At any time during the fiscal year the Manager may transfer part or all of any unencumbered appropriation balance among programs within a department, office, or agency and, upon written request by the Manager, the Council may by resolution transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

(d) No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 1008. Lapse of Appropriations. Every appropriation, except an appropriation for a capital expenditure, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three years pass without any disbursement from or encumbrance of the appropriation.

Section 1009. Tax Limits.

(a) The 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 voters 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 voters. 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 time and in the same manner as other property taxes for municipal purposes are levied and collected, as additional taxes not subject to the aforesaid tax limit, if no other provision for payment thereof is made:

1. A tax sufficient to meet all liabilities of the City for principal and interest of all bonds or 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 to the Public Employees Retirement System or other retirement system approved by the Council, for the retirement of City employees, due and unpaid or to become due during the ensuing fiscal year

Section 1010. Tax Procedure. The procedure for the assessment, levy, and collection of taxes upon property, taxable for municipal purposes, may be prescribed by ordinance of the Council; and in the absence of such an ordinance the procedure applicable thereto

shall be that prescribed by the general laws of the State.

Section 1011. 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 value, for purposes of City taxation, of all taxable 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 voters voting on such proposition at any election at which the question is submitted to the voters and unless in compliance with the provisions of the State Constitution and of this Charter; provided, however, that if the State Constitution and/or general laws allow a general law city to incur a bonded indebtedness constituting a general obligation thereof without having first obtained the approval of two-thirds of the voters voting on such a proposition, then the City shall be authorized to incur such a bonded indebtedness in the manner prescribed by the State Constitution and/or general laws.

Section 1012. Contracts on Public Works. Every project involving an expenditure of more than Three Thousand Five Hundred Dollars (or such other amount as may be prescribed by ordinance) for the construction, improvement, repair or maintenance of public works shall be let by the Council by contract to the lowest responsible bidder after notice by publication in the official newspaper by one or more insertions, the first of which shall be at least ten days before the time for opening bids.

Projects for the maintenance or repair of public works are excepted from the requirements of this paragraph if the Council determines that such work can be performed more economically by a City department than by contracting for the doing of such work.

The Council may reject any and all bids presented and may readvertise in its discretion.

The Council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the work in question may be performed better or more economically by the City with its own employees and after the adoption of a resolution to this effect by at least four affirmative votes of the Council may proceed to have said work done, 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 shall be deemed by the Council to be of urgent necessity for the preservation of life, health, or property, and shall be authorized by resolution passed by at least four affirmative votes of the Council and containing a declaration of the facts constituting such urgency.

Section 1013. Presentation and Audit of Demands. Any demand 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 who 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 Treasurer therefor, payable out of the proper fund.

The Director of Finance shall transmit such demand, with his approval or rejection thereof endorsed thereon, and warrant, if any, to the City Manager. The City Manager shall cause the same to be transmitted to the Council which may then approve or disapprove payment thereof.

Section 1014. Registering Warrants. Warrants on the 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 Council by resolution.

Section 1015. Claims Against the City. The Council by ordinance may provide for conditions precedent to the commencement of any action or proceeding to bringing suit against the City, its officers and employees, except as the subject is preempted by State law.

Section 1016. Independent Audit The City Council shall employ at the beginning of each fiscal year, a certified public accountant who shall, at such time or times as may be specified by the City Council, and at such other times as he shall determine, examine the books, records, inventories and reports of all officers and employees who receive, handle, or disburse public funds and 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 certified 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 Manager, Director of Finance, Treasurer, and City Attorney, respectively, and three additional copies to be placed on file in the office of the City Clerk where they shall be available for inspection by the general public.

Article XI
Franchises

Section 1100. Granting of Franchises. The Council may grant a franchise to any person, partnership, corporation, or other legal entity capable of exercising the privilege conferred, whether operating under an existing franchise or not, and may prescribe the terms, conditions, and limitations of such grant, including the compensation to be paid to the City therefor. The Council may prescribe by ordinance or resolution the method or procedure for granting franchises, together with additional terms and conditions for making such grants. In the absence of such provision the method provided by the general laws of the State shall apply.

Section 1101. Term of Franchise. No franchise shall be granted for a longer period than twenty-five years, unless there be reserved

to the City the right to take over at any time the works, plant, and property constructed under the grant at their physical valuation and without compensation for franchise or good will.

Section 1102. Eminent Domain. No franchise or grant of a franchise shall in any way or to any extent impair or affect the right of the City to acquire the property of the possessor thereof by purchase or condemnation, and nothing therein contained shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the City's right of eminent domain with respect to the property of the possessor of any franchise. Every franchise granted by the City is granted upon the condition, whether expressed in the grant or not, that such franchise shall not be given any value before any court or other public authority in any proceeding of any character in excess of any amount actually paid by the grantee to the City at the time of the grant.

Section 1103. Procedure for Granting Franchises. Before granting any franchise, the City Council shall adopt a resolution declaring its intention to grant same and stating the name of the proposed grantee, the character of the proposed 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 person having an interest in or objecting to the granting of such franchise may appear before the Council and be heard thereon. Said resolution shall be published at least once, not less than ten days prior to said hearing, in the official newspaper. After hearing all persons desiring to be heard, the Council may by ordinance deny or grant the franchise on the terms and conditions specified in the resolution, subject to the referendum of the people. No ordinance granting a franchise shall be adopted as an emergency ordinance.

Article XII
Miscellaneous

Section 1200. Definitions. Unless the provision or the context otherwise requires, as used in this Charter·

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

(b) "City" is the City of Cypress, 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 Cypress.

(c) "City Code" is the Code of the City of Cypress.

(d) "Council" is the City Council of the City.

(e) "Councilman" is a member of the Council.

(f) "Departmental administrator" is the person in charge of a City department.

(g) "Government Code" is the California Government Code as it exists upon adoption of this Charter, or is thereafter amended.

(h) "Law" includes ordinance.

(i) "Officer" is a person holding an elected office, a member of a

board or commission, the City Manager, and a departmental administrator or a person acting in his place.

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

(k) "Voter" is a legally registered voter.

(*l*) The masculine, feminine, and neuter genders shall be interchangeable, as shall be the singular and plural.

Section 1201. Violations A violation of this Charter or 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 or may be redressed by civil action filed by the City. 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 such fine and imprisonment.

Section 1202. 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.

(SEAL)

The foregoing instrument is a full, true, and correct copy of the original on file in this office

Attest:
DARRELL ESSEX, December 19, 1974
City Clerk of the City of
Cypress, California

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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of this proposed charter; 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 Cypress, County of Orange, as proposed to, and adopted and ratified by, the electors of the city as hereinabove fully set forth, is hereby approved as a whole, without alteration or amendment, for the City of Cypress, County of Orange.

RESOLUTION CHAPTER 10

Senate Concurrent Resolution No. 18—Relative to commending the Honorable Harry K. Tokatlides.

[Filed with Secretary of State January 30, 1975]

WHEREAS, The members desire to take this opportunity to extend their warmest welcome and highest commendations to the Honorable Harry K. Tokatlides, Member of the Parliament of Greece, upon the occasion of his visit to the capital of the State of California; and

WHEREAS, The Honorable Harry K. Tokatlides, whose political perceptions are gaining wide recognition and the trust and respect of the citizens of Greece, has continuously displayed a wholehearted endeavor to strengthen the many different ties which have traditionally bound the United States and Greece as friends and allies for more than 150 years; and

WHEREAS, During the recent difficult times and crisis in Greece he earned the respect and esteem of the citizens of the United States as well, cautioning the citizens of Greece in their actions and reminding them of the great and many benefits that have flowed between the two countries in the past and those that will continue to flow while the countries maintain a mutual respect and friendly cooperation; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Honorable Harry K. Tokatlides, an outstanding ambassador of good will in Greece to the United States, be commended and congratulated for his endeavors in improving relations between our two countries, and extended the warmest welcome upon his arrival in the capital of the State of California; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to the Honorable Harry K. Tokatlides.

RESOLUTION CHAPTER 11

Senate Concurrent Resolution No. 9—Relative to the Sears, Roebuck & Company Mission District store.

[Filed with Secretary of State February 5, 1975]

WHEREAS, Sears, Roebuck, & Company has announced its plans to close its San Francisco Mission District store after over 40 years of profitability as "anchor store of the Mission District"; and

WHEREAS, This would stop short the new Mission economic renaissance begun by community organizations, local and federal

agencies, and the opening of the Bay Area Rapid Transit station three blocks from the store; and

WHEREAS, Over 250 individuals will be removed from jobs (many of them held for over 15 years), creating an added burden for unemployment and welfare departments; and

WHEREAS, The closing would cut down disastrously on the money inflow to the Mission District from residents and other San Franciscans and thereby create a wave of store closings and further unemployment in the area; and

WHEREAS, It is believed that an issue of social responsibility exists under these circumstances on behalf of an inner-city district, which has helped over the years to finance the extension of Sears, Roebuck, & Company into the peninsula suburbs; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That every effort be made to persuade Sears, Roebuck, & Company that money and time invested in an active program to revive Mission store business through extension of the closing date by six months to one year to give a chance to local community groups and agencies to develop proposals on remerchandising the store and local advertising, and, in cooperation with the city, to upgrade parking and other facilities, together with direct contact with Arthur Wood, Chairman of the Board of Directors of Sears, Roebuck, & Company, will redound both to profit needs and social needs of the company and the community; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Sears, Roebuck, & Company Mission District store and Mr. Arthur Wood, Chairman of the Board of Directors of Sears, Roebuck, & Company.

RESOLUTION CHAPTER 12

Assembly Concurrent Resolution No. 27—Relative to convening the Legislature.

[Filed with Secretary of State February 11, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That pursuant to subdivision (d) of Section 7 of Article IV of the Constitution, the Assembly and the Senate shall each convene on the day of February 13, 1975, at the Sacramento Community Center at the time agreed upon by the Assembly and Senate.

RESOLUTION CHAPTER 13

Assembly Concurrent Resolution No. 34—Approving an amendment to the Charter of the City of Stockton, State of California, ratified by the qualified electors of the city at a special municipal election, consolidated with the statewide general election held therein on the fifth day of November, 1974.

[Filed with Secretary of State February 11, 1975]

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

Assembly Concurrent Resolution No. 34—Approving amendment to the Charter of the City of Stockton, State of California, ratified by the qualified electors thereof, at a special municipal charter amendment election consolidated with the State of California general election held therein on Tuesday, November 5, 1974.

WHEREAS, The City of Stockton in the County of San Joaquin, State of California, contains a population of one hundred nine thousand one hundred fifty-three as ascertained by the last preceding census taken under the authority of the congress of the United States, and has been ever since July 2, 1923, and now is, organized and acting under a freeholders charter adopted under and by virtue of former section 8, article 11 of the constitution of the State of California, which charter was duly ratified by a majority of the electors of said city at a special election held for that purpose on the twenty-eighth day of November, 1922, and approved by the Senate of the State of California on January 22, 1923, and by the Assembly of the State of California on January 24, 1923, and filed with the Secretary of State on January 29, 1923, which said freeholders charter is printed in full in Chapter 7 of concurrent and joint resolutions and constitutional amendments passed at the regular session of the forty-fifth Legislature of the State of California and found in Statutes of 1923 at page 1321 and following.

CERTIFICATE OF THE ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF STOCKTON AT A SPECIAL MUNICIPAL CHARTER AMENDMENT ELECTION CONSOLIDATED WITH THE STATE OF CALIFORNIA GENERAL ELECTION HELD THEREIN ON THE 5TH DAY OF NOVEMBER, 1974, OF CERTAIN AMENDMENT TO THE CHARTER OF THE CITY OF STOCKTON, STATE OF CALIFORNIA.

State of California,
County of San Joaquin, } ss.
City of Stockton,

We, Manuel Silveria, mayor of the City of Stockton, and John M. Jarrett, City Clerk of the City of Stockton, do hereby certify as follows:

That the said City of Stockton in the County of San Joaquin, State of California, is now and at all of the times mentioned herein was a City containing a population of one hundred nine thousand one hundred fifty-three inhabitants, as ascertained by the last preceding census taken under the authority of the congress of the United States; and

That said City of Stockton is now and at all of the times herein mentioned was organized and existing under a freeholders charter adopted pursuant to the provisions of former Section 8, Article 11 of the Constitution of the State of California, which charter was duly ratified by a majority of the electors of said City at a special election held therein on the twenty-eighth day of November, 1922, and approved by the Legislature of the State of California on the twenty-fourth day of January, 1923 (Stat. 1923, page 1321), and filed with the Secretary of State of the State of California on January twenty-nine, 1923; and

That pursuant to Section 3 of Article 11 of the Constitution of the State of California, the legislative body of said City, i.e., the City Council of said City, did on its own motion and pursuant to the provisions of said Article and Section of the Constitution of the State of California duly propose to the electors of the City of Stockton a certain proposal for the amendment of the charter of said City to be voted upon by said qualified electors at a certain Special Municipal Charter Amendment Election consolidated with the State of California General Election held on November 5, 1974, which said proposal was designated as City of Stockton Charter Amendment Measure, Measure A; and

That said proposed City of Stockton Charter Amendment Measure was, on the 17th day of September, 1974, duly published in each issue of The Stockton Record, a daily newspaper published and circulated in the City of Stockton and the official newspaper of said City, said paper having been designated for said purpose by the said City Council; and

That said City Council did, by Resolution No. 31,635, adopted on September 3, 1974, fix November 5, 1974, the date of the Special Municipal Charter Amendment Election to be consolidated with the State of California General Election in Stockton, as the date of the election on said proposed charter amendment.

That said proposed charter amendment was printed in convenient pamphlet form and in type of not less than ten-point, and that the Clerk of the City of Stockton caused copies of said proposed charter amendment to be mailed, postage prepaid, to each of the qualified

electors of the City of Stockton, as required by law.

That the City Clerk of the City of Stockton, did, commencing September 17, 1974, and continuing through October 5, 1974, advertise in The Stockton Record, a newspaper of general circulation in said City, and the official newspaper for said City, a notice that copies of said proposed charter amendment might be had upon application at the office of the said City Clerk.

That said Special Municipal Charter Amendment Election consolidated with the State of California General Election was held in the said City of Stockton on the 5th day of November, 1974, which said day was not less than forty, nor more than sixty days after the completion of the advertising of said proposed charter amendment in The Stockton Record, the official newspaper of the City of Stockton, as hereinabove stated;

That at such Special Municipal Charter Amendment Election consolidated with the State of California General Election held as aforesaid on said 5th day of November, 1974, a majority of the qualified voters of said City of Stockton voting thereon voted in favor of the proposed amendment to the charter of the City of Stockton and duly ratified the same;

That said proposed amendment to the charter of the City of Stockton as aforesaid was and is amendment numbered Measure A.

That the City Council of said City of Stockton after duly and regularly canvassing the returns of said municipal election at the time and in the manner and form prescribed by law duly found, determined and declared that a majority of the qualified voters of the City of Stockton voting thereon had voted for and ratified the proposed amendment to the charter of the City of Stockton numbered Measure A.

That said proposed amendment to the charter of the City of Stockton ratified by the electors of said City, as aforesaid, is in the words and figures as follows, to-wit:

CITY OF STOCKTON CHARTER AMENDMENT MEASURE
MEASURE A

That the Charter of the City of Stockton be amended by amending Section 9 of Article XXXII, to read as follows:

Article XXXII

Civil Service

Appointments to Vacant Positions Certification From Lists

Section 9. Whenever a position in the classified service of the police or fire department becomes vacant, the appointive officer, if he desires to fill the vacancy, shall make requisition upon the commission for the name and address of a person eligible for

appointment thereto. The commission shall certify the name of the person highest on the eligible list from the class to which the vacant position has been allocated, who is willing to accept employment except in the case of appointing an assistant fire chief. If more than one vacancy is to be filled, an additional name shall be certified for each additional vacancy. On original appointment the appointing power shall appoint such persons to such vacant position on probation On promotional police appointments, except those of chief, the appointing power shall appoint persons to such vacant position on probation for a period of twelve months.

During the probationary period for promotional police appointments and unless charges of dismissal or demotion are brought as elsewhere provided in this Charter, the appointing authority, upon the recommendation of the chief of the Police Department, may demote the appointee to his former rank, provided that the reasons are specified in writing, served on the person and filed with the Commission Any person so demoted, may, within ten (10) days from the time of his demotion, file with the Commission a written demand for an investigation, whereupon the Commission shall conduct such investigation. The investigation shall be confined to the determination of the question as to whether such demotion was or was not made for political or religious reasons and was or was not made in good faith for cause. After such investigation, the Commission may affirm the demotion or, if it shall find that the demotion was made for political or religious reasons or was not made in good faith for cause, shall order the immediate reinstatement of such persons to the office, place or position or employment from which such person was demoted, which reinstatement shall if the Commission so provides, in its discretion, be retroactive and entitle such persons to such pay or compensation as he would have received had he not been demoted. The findings of the Commission shall be certified in writing to the appointing power and shall be forthwith enforced by such officer. The Commission when conducting an investigation and hearing under this section shall consider that this promotional probationary period is regarded as an intrinsic part of the examination process and that the same is utilized for closely observing the promotional appointee's work for securing the most effective adjustment of a probationer's qualifications to this higher rank and for the purpose of eliminating any probationer from attaining permanent status in said higher rank whose work performance does not meet the required standards of duties and responsibilities The Commission shall make suitable rules and regulations regarding the measurement of such probationary period consistent with the provisions of the Civil Service Act and, in the Commission's opinion, consistent with good personnel administration.

Whenever a position of assistant fire chief becomes vacant, the appointive officer, if he desires to fill the vacancy, shall make requisition upon the commission for the names of persons eligible for

appointment thereto. The commission shall certify the three names at the top of the eligible list for such class or, in the event of two or more vacancies in the class, the commission shall certify two names more than the number of vacancies. If insufficient names are available to meet this requirement, the appointing authority may request additional certification, whereupon the civil service commission shall schedule and conduct an examination to provide the number of eligibles required. Any one of the names so certified may be appointed to the vacancy regardless of standing on the eligible list and not on probation.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the name of the person eligible for appointment to the appointing power and said appointing power shall forthwith appoint the person so certified, to said position. No person so certified shall be laid off, suspended, given leave of absence from duty, transferred or reduced in pay or grade, except for reasons which will promote the good of the service, specified in writing after an opportunity to be heard by the commission, and then only with its consent and approval.

Appointments shall be regarded as taking effect upon the date when the person certified for appointment reports for duty. A person tendered certification may waive or refuse certification in writing for a period for reasons satisfactory to the commission and such waiver or refusal shall not affect the standing or rights to certification to the first vacancy in the class occurring after the expiration of such period. If no such waiver or refusal has been filed and the period therefor has expired and the person tendered certification fails to report for duty forthwith after tender of certification has been made, his name, may at the discretion of the commission, be striken from all lists for such class. Acceptance or refusal of temporary appointment or of an appointment to a position exempt from the provisions of this list shall not affect the standing of any person on the list for permanent appointment.

We further certify that we have compared the text of the foregoing amendment with the original proposal submitting the same to the electors of said city and find that the foregoing is a full, true, correct, complete and exact copy thereof.

That as to said amendment this certificate shall be taken as a full and complete certification of the regularity of all proceedings had and done in connection therewith.

In witness whereof, Manuel Silveria, Mayor of the City of Stockton, and John M. Jarrett, City Clerk, as aforesaid, have hereunto set their hands and caused the corporate seal of the City of Stockton to be thereunto affixed this 15th day of January, 1975.

MANUEL SILVERIA
(SEAL) Mayor of the City of Stockton
JOHN M. JARRETT
City Clerk of the City of Stockton

WHEREAS, The proposed amendment to the 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of the proposed amendment; 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 Stockton, as proposed to, and adopted and ratified by, the electors of the city as hereinabove fully set forth, 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 Stockton.

RESOLUTION CHAPTER 14

Senate Concurrent Resolution No. 19—Approving amendments to the Charter of the City of San Bernardino, State of California, ratified by the qualified electors of the city at a special municipal election, consolidated with the statewide general election held therein on the fifth day of November, 1974.

[Filed with Secretary of State February 11, 1975]

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

State of California
County of San Bernardino } ss
City of San Bernardino

We, the undersigned W. R Holcomb, Mayor of the City of San Bernardino, State of California, and Lucille Goforth, City Clerk of said City, do hereby certify and declare as follows:

The City of San Bernardino, in the County of San Bernardino, State of California, was at all times mentioned herein and now is a City of the State of California existing and acting under a Charter duly

adopted and approved under and by virtue of the Constitution of the State of California, containing a population of over fifty thousand inhabitants.

The legislative body of said City on its own motion submitted to the electors of said City, at a Special Municipal Election, consolidated with the Statewide General Election, held within said City on the 5th day of November, 1974, proposed amendments to the City Charter of said City.

Said proposed amendments were published in the San Bernardino Sun, being a newspaper of general circulation therein, and being an official newspaper of said City, on the 26th day of September, 1974, in each addition thereof on said day and said publication was made at the time and in the manner prescribed in Part I, Chapter 3, Sections 34450 through 34466 of the Government Code of the State of California, Title 4, Division 2.

Said legislative body caused copies of said amendments to be printed in convenient pamphlet form and in type of not less than ten-point, and caused copies thereof to be mailed to each of the qualified electors of said City and, until the day fixed for said election, advertised in the San Bernardino Sun, being a newspaper having a general circulation in said City, a notice that copies thereof could be had upon application therefor, and in accordance with said notice copies thereof could be had upon application therefor.

Said election was duly and regularly held on the said 5th day of November, 1974, which said date of the said election was not less than forty nor more than sixty days after the completion of the advertising in said newspaper of said proposed amendments, and at said election a majority of the qualified voters voting therein voted in favor thereof and did ratify said proposed amendments to said City Charter.

Said proposed amendments were duly and regularly submitted to, and duly ratified by, the said qualified voters of said City, and that all and singular the requirements of the Constitution and laws of the State of California and the Charter of said City have been complied with.

Said amendments are as follows:

Article XIII, Section 253 of the Charter of the City of San Bernardino is amended to read as follows:

Section 253. An appointment or promotion shall not be deemed complete until an applicable period of probation of not more than one year has elapsed. The probationer may be discharged or reduced at any time within said period upon the recommendation of the head of the department in which said probationer is employed with the approval of a majority of the Civil Service Board. Periods of probation shall be fixed by resolution of the Mayor and Common Council and procedures for and effective dates of discharges and reductions shall be adopted by the Civil Service Board in its rules and regulations.

Article XIII, Section 243 of the Charter of the City of San

Bernardino which requires the publication in a local newspaper each month of all claims against the City Treasury, is repealed.

We have compared the said ratified amendments with the original proposed amendments submitted to the qualified electors of the said City, and find that the foregoing is a full, true, correct and exact copy of said amendments.

We further certify that the facts set forth in the preamble preceding said amendments to said Charter, and each of them are true.

In witness whereof, we have hereunto set our hands and caused the corporate seal of the City of San Bernardino to be attached on this 14th day of January, 1975.

(SEAL)

W. R. HOLCOMB
Mayor of the City of San Bernardino, California
LUCILLE GOFORTH
City Clerk of the City of San Bernardino, California

and

WHEREAS, The proposed amendments to the charter, as adopted and ratified as hereinabove set forth, have been and now are 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of these proposed amendments; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly 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 Bernardino, as proposed to, and adopted and ratified by, the electors of the city, as hereinabove fully set forth, 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 Bernardino.

RESOLUTION CHAPTER 15

Assembly Concurrent Resolution No. 17—Relative to the California Law Revision Commission.

[Filed with Secretary of State February 25, 1975]

WHEREAS, Section 10335 of the Government Code provides that the California Law Revision Commission shall file a report at each regular session of the Legislature which shall contain a calendar of

topics selected by it for study, including a list of the studies in progress; and

WHEREAS, The commission, in its annual report covering its activities for 1974, lists the following topics, all of which the Legislature has previously authorized or directed the commission to study, as studies in progress:

Topics Under Active Consideration

(1) Whether the law relating to creditors' remedies including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters should be revised;

(2) Whether the law 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;

(3) Whether the law relating to nonprofit corporations should be revised;

(4) Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised;

(5) 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;

(6) Whether the law relating to modification of contracts should be revised;

(7) Whether the law relating to the escheat of property and the disposition of unclaimed or abandoned property should be revised;

(8) Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised;

Other Topics Authorized for Study

(1) Whether the parol evidence rule should be revised;

(2) Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised;

(3) Whether the law relating to arbitration should be revised:

Topics Continued on Calendar for Further Study

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

(2) Whether the Evidence Code should be revised;

(3) Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including but not limited to liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised;

(4) 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;

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

WHEREAS, The commission, in its annual report covering its activities for 1974, has recommended that the following topic, previously approved for study, be removed from its calendar:

(1) Whether the law relating to the right of nonresident aliens to inherit should be revised; and

WHEREAS, The commission, in its annual report covering its activities for 1974, describes five new topics which the Legislature has not previously authorized the commission to study:

(1) Whether the law relating to transfer of out-of-state trusts to California should be revised;

(2) Whether the law relating to class actions should be revised;

(3) Whether the law relating to offers of compromise should be revised;

(4) Whether the law relating to discovery in civil cases should be revised;

(5) Whether the law relating to possibilities of reverter and powers of termination should be revised; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature approves the topics listed above as studies in progress for continued study by the California Law Revision Commission, approves the removal from the commission's calendar of the topics listed above that the commission has recommended be removed from its calendar, and authorizes the commission to study the topics listed above that have not previously been authorized for study; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission.

RESOLUTION CHAPTER 16

Assembly Joint Resolution No. 4—Relative to the definition of tax effort under the State and Local Assistance Act of 1972.

[Filed with Secretary of State March 3, 1975]

WHEREAS, The current formula for allocation of funds to local government under the State and Local Assistance Act of 1972 places a major emphasis on the tax effort factor in local communities; and

WHEREAS, The tax effort factor is based on the amount of eligible taxes collected by a local community, this being recognized as the measure of a local government's effort to fully utilize the financial resources available in the local community; and

WHEREAS, In formulating the State and Local Assistance Act of 1972, the Congress failed to take into consideration the status of California cities and counties which receive services from special districts which are the direct recipients of taxes paid by the citizens of these cities and counties; and

WHEREAS, As a result of this special district taxation, cities and counties are thus deprived of credit for tax effort under the present definition of tax effort in the State and Local Assistance Act of 1972; and

WHEREAS, This results in cities and counties receiving a reduced amount of revenue on a per capita share basis, the inequity amounting to as much as 1,000 (one thousand) percent between the lowest and highest city per capita allocation, despite the fact that taxpayers in these cities and counties may pay approximately the same average tax rate; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to remove such an inequity either by amending the State and Local Assistance Act of 1972 or by administrative ruling specifically defining what constitutes "tax effort" by a city or a county, so as to include the total amount of eligible taxes "paid" by the taxpayers of a city or a county rather than taxes "collected" by the city or county government, the former being a truer measure of local effort to fully utilize the financial resources available in the local community; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 17

Assembly Concurrent Resolution No. 4—Relative to state telecommunications.

[Filed with Secretary of State March 10, 1975]

WHEREAS, Telecommunications are an essential part in conducting the day-to-day operations of state government; and

WHEREAS, State telecommunications costs are many millions of dollars each year and are rising; and

WHEREAS, The state does not have a master telecommunication network plan; and

WHEREAS, The Department of General Services has the responsibility for statewide telecommunications systems and the Department of Finance is charged with assuring that public moneys are used in the most efficient manner; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the intention of the Legislature that the Department of Finance continually review the adequacy of state plans and controls for the use of data communications by state agencies; and be it further

Resolved, That a draft of a master plan for a statewide data communication system shall be developed by the Department of General Services with the assistance of the Department of Finance and that the master plan shall be submitted to the California Information Systems Implementation Committee by April 1, 1975; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Department of General Services and the Department of Finance.

RESOLUTION CHAPTER 18

Assembly Concurrent Resolution No. 19—Relative to an interchange at Avalon Boulevard and Route 405 in the City of Carson.

[Filed with Secretary of State March 10, 1975]

WHEREAS, The absence of interchange ramps connecting Route 405 and Avalon Boulevard south of Route 405 in the City of Carson poses serious hazards to traffic on Route 405 and is hindering commercial growth in the City of Carson; and

WHEREAS, Construction of the interchange ramps would significantly improve highway safety and greatly facilitate access to commercial establishments in the City of Carson; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to commence, on or before July 1, 1976, construction of the planned interchange ramps connecting the northbound lanes of Route 405 to southbound Avalon Boulevard and northbound Avalon Boulevard to the southbound lanes of Route 405; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and to the City Council of the City of Carson.

RESOLUTION CHAPTER 19

Assembly Concurrent Resolution No. 20—Relative to a bridge on Route 162.

[Filed with Secretary of State March 10, 1975]

WHEREAS, The economy of Covelo and adjacent areas in Mendocino County is adversely affected by the absence of all-weather access via Route 162; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to study the feasibility of constructing a new, all-weather bridge and approaches on Route 162 at its crossing of the Middle Fork of the Eel River southwest of Covelo in Mendocino County; and be it further

Resolved, That the Department of Transportation report its findings to the Legislature by April 1, 1976; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 20

Assembly Concurrent Resolution No. 23—Relative to State Highway Route 91.

[Filed with Secretary of State March 17, 1975]

WHEREAS, The Department of Transportation, on June 8, 1964, entered into a freeway agreement with the City of Bellflower for the construction of Route 91 as a freeway; and

WHEREAS, The freeway has been completed except for the construction of ramp connections to Downey and Clark Avenues, which construction was delayed until growth in traffic volumes indicated the need for the ramp connections; and

WHEREAS, Such traffic growth has occurred, causing congestion and traffic overloads on streets in the city, and the ramp connections are critically needed to alleviate the congestion and to redistribute traffic flows; and

WHEREAS, The department has been developing a project to construct the ramp connections and, in compliance with the Environmental Quality Act of 1970, is presently assessing the proposed project from an environmental standpoint; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to expedite the environmental assessment of the proposed project to construct State Highway Route 91 ramp connections to Downey and Clark Avenues in the City of Bellflower so that environmental clearance for the project can be secured in 1975; and be it further

Resolved, That the department, following environmental clearance for the project, expedite the planning and design of the project so that construction can commence during the 1976–77 fiscal year; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 21

Senate Concurrent Resolution No. 26—Approving the amendments to the Charter of the City of Santa Rosa, State of California, ratified by the qualified electors of the city at a special municipal election held therein on the fifth day of November, 1974.

[Filed with Secretary of State March 20, 1975]

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

I hereby certify that the foregoing is a true and correct copy of a resolution duly and regularly adopted by the Council of the City of Santa Rosa at a regular meeting thereof held November 12, 1974.

KENNETH R. BLACKMAN,
City Clerk
City of Santa Rosa
By MARION MCCOMAS
Asst.

RESOLUTION NO. 11161

A Resolution Declaring Result of a Special Municipal Election Held November 5, 1974 in the City of Santa Rosa, California

Resolved, by the City Council of the City of Santa Rosa, Sonoma County, California, that

Whereas, this Council, by Ordinance No. 1735, adopted on the 3rd day of September, 1974, duly called and ordered held within the City of Santa Rosa, a special municipal election on the 5th day of November, 1974, for the purpose of submitting to the qualified electors thereof the Propositions therein set forth;

Whereas, said special municipal election was consolidated with the statewide election held on the same date and was held and conducted on said day as required by law and said Ordinance;

Whereas, it appears that notice of said election was duly and legally given, that voting precincts were properly established therefor, that polling place location information, sample ballots, tax rate statement and arguments for and against said Propositions were mailed to all qualified voters within said City; election officers were appointed and election supplies furnished; and that in all respects said election was held and conducted and all votes cast thereat received and canvassed and returns thereof made, determined and declared in the time, form and manner as required by said Ordinance No. 1735 and by the laws providing for and regulating municipal elections;

Whereas, said canvass was duly completed and certified to this Council and the results thereof are as hereinafter set forth;

Now, therefore, it is hereby found, determined and resolved, as follows:

1. That said special municipal election was held and conducted in the City of Santa Rosa, County of Sonoma, State of California, on Tuesday, November 5, 1974, in the time, form and manner required by law.

2. That there were 81 voting precincts established in said City for the purpose of holding said election, as last established by the Board of Supervisors of the County of Sonoma for the conduct of state and county elections.

3. That a canvass of the votes cast in said City upon the measures

thereat submitted was duly held in accordance with the order of the City Council and in accordance with law.

4. That the Propositions voted upon in said special municipal election were as follows:

Proposition E: (Streets)

Shall the City of Santa Rosa be permitted to issue bonds in the principal amount of $3,500,000 for the acquisition, construction and completion of improvements of portions of major city streets as follows: (a) Brookwood Avenue from Sonoma Avenue to College Avenue; (b) Russell Avenue from Highway 101 to Mendocino Avenue; (c) West College Avenue from Cleveland Avenue to Link Lane; (d) Montecito Boulevard from Middle Rincon Road to Calistoga Road; including the acquisition of all lands and easements and the doing of all work auxiliary thereto and necessary to complete the same?

Proposition F: (Fire Protection Oakmont)

Shall the City of Santa Rosa be permitted to issue bonds in the principal amount of $600,000 for the purpose of augmenting and supplementing the existing municipal fire protection system in the Oakmont area by constructing and installing a fire substation complete, acquiring a pumper truck, a replacement pumper truck and an aerial ladder truck; and by acquiring all equipment, apparatus, furniture and facilities and the doing of all work auxiliary thereto and necessary to complete the same?

and the number of votes received for and against each of the Propositions in the precincts established therefor are as set forth in Exhibit "A" hereto attached and by reference incorporated herein.

5. The total number of ballots cast in all of said precincts was 23,305 ballots. The number of votes cast in all of said precincts for Proposition E voted upon was 12,847 and the number of votes cast in all of said precincts against Proposition E voted upon was 8,149; the number of votes cast in all of said precincts for Proposition F voted upon was 13,317 and the number of votes cast in all of said precincts against Proposition F voted upon was 7,638.

6. There were 1,395 absent voter ballots applied for and 1,305 absent voter ballots voted. Said absent voter ballots were received and canvassed in time, form and manner as required by law, and the result of ballots cast by the absent voters was 646 votes for and 469 votes against Proposition E and 696 votes for and 420 votes against Proposition F.

7. The total number of ballots issued at the election, including the absent voter ballots, was _____, the total number of ballots voted was _____.

8. The total number of votes cast for Proposition E voted upon was 13,493, and the total number of votes cast against Proposition E voted upon was 8,618.

9. The total number of votes cast for Proposition F voted upon was 14,013, and the total number of votes cast against Proposition F voted upon was 8,058.

10. That at said election less than two-thirds of all of the votes cast for and against each of Propositions E and F, were in favor of each of said Propositions and said Propositions have not been accepted and approved by the electors of said City.

11. Proposition G containing a proposed amendment to the charter of the City of Santa Rosa was duly adopted by the following vote:

For 15,068 Against 5,899 Total Vote 20,967

A true and correct copy of said charter amendment is attached hereto. The City Clerk is hereby directed to forward a copy of the said charter amendment to the Secretary of State of the State of California for filing.

12. That the City Clerk be and is hereby instructed to enter this resolution in full in the minutes of this Council as a statement of the result of said special municipal election.

AMENDMENT TO SECTION 33 OF THE CHARTER OF THE CITY OF SANTA ROSA

Sec. 33. Contract Work. In the erection, improvement and repair of all public buildings and works, in all street and sewer work, or in or about embankments or other works for the protection against overflow, and in furnishing any supplies or materials for the same, when the expenditure required for the same shall exceed the sum of *Five Thousand Dollars, or such higher sum as may subsequently be provided by the State Contract Act for the letting of bids by the State Department of Public Works* ~~Two Thousand Five Hundred Dollars~~, the same shall be done by contract and shall be let to the lowest responsible bidder, after notice by publication in the official newspaper;

Provided that the Council may reject any and all bids presented and may re-advertise in their discretion, and

Provided further, that after rejecting bids the Council may declare and determine by a four-fifths vote of all its members that in its opinion the work in question may be more economically or satisfactorily performed by day labor, or the materials or supplies purchased at a lower price in the open market, and after the adoption of a resolution to this effect, they may proceed to have the same done in the manner stated without further observance of the foregoing provisions of this section; and

Provided further, that in case of a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, the Council may, by resolution passed by a vote of four-fifths of all its members, declare and determine that public interest and necessity demand the immediate expenditure of public money to safeguard

life, health or property, and thereupon may proceed to expend or enter into a contract involving the expenditure of any sum required for such emergency.

In the employment of labor by contract or day work, preference shall be given so far as practicable to local people as against non-residents, insofar as the same is not in conflict with the constitution or general laws.

I hereby certify that the foregoing is a full, true and correct copy of a resolution duly and regularly adopted and passed by the City Council of the City of Santa Rosa, California, at a meeting thereof held on the 12th day of November, 1974, by the following vote of the members thereof:

(5) Ayes, and in favor thereof, Councilmen: Mayor Downey, Guggiana, Jones, Poznanovich & Zatman

(0) Noes, Councilmen:

(0) Absent, Councilmen:

(SEAL)

MARION MCCOMAS
/s/ Marion McComas, Asst.
City Clerk of the City of
Santa Rosa

Approved:
JOHN H. DOWNEY, JR.
/s/ John H. Downey, Jr.,
Mayor

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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of this proposed charter amendment; now, therefore, be it

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

RESOLUTION CHAPTER 22

Assembly Concurrent Resolution No. 9—Relative to Interstate Route 210.

[Filed with Secretary of State March 25, 1975]

WHEREAS, Under an existing state contract, construction of a segment of Interstate Route 210, commonly known as the Foothill Freeway, from Lowell Avenue to a point eight-tenths of a mile east of Sunland Boulevard in the City of Los Angeles, is to be completed in early 1976; and

WHEREAS, The original program for construction provided a schedule which would have completed construction of a connection between the freeway and Sunland Boulevard as the initial stage on a succeeding contract for construction of the next freeway segment west to Van Nuys Boulevard in phase with the completion of the current construction project, but that program has been delayed; and

WHEREAS, Because of the delay in the construction of such connection, the public will be denied the use of some 2½ miles of freeway facility for a period of at least a year and a half; and

WHEREAS, This denial will require continued imposition of heavy traffic volumes on Foothill Boulevard between Lowell Avenue and Sunland Boulevard and on La Tuna Canyon Road between the Foothill Freeway interchange and Sunland Boulevard beyond reasonable levels of capacity and with associated congestive traffic conditions during long periods of each day; and

WHEREAS, The traveling public will be exposed to a higher frequency of personal injuries and vehicle accidents; and

WHEREAS, The heavy congestion which will continue to be imposed on Foothill Boulevard will have serious adverse effects on the commercial communities of Sunland and Tujunga; and

WHEREAS, The lack of such connection will cause a denial of service to the traveling public, and particularly to residents and businessmen of the Sunland and Tujunga communities, which is an imposition of an unreasonable hardship on the citizens of California directly served by the facility and others who have the need to use this portion of a major interregional highway facility; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is requested to take whatever steps are necessary to effect construction of a temporary roadway connection between the end of the Foothill Freeway construction project eight-tenths of a mile east of Sunland Boulevard and Sunland Boulevard, such connection to be completed at the same time as the Foothill Freeway segment in early 1976; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of

this resolution to the Director of Transportation.

RESOLUTION CHAPTER 23

Assembly Concurrent Resolution No. 44—Approving amendments to the Charter of the City and County of San Francisco, State of California, ratified by the qualified electors of the city and county at the general municipal and state election held therein on the fifth day of November, 1974.

[Filed with Secretary of State March 25, 1975]

WHEREAS, Proceedings have been taken and had for the proposal, adoption, and ratification of amendments to the Charter of the City and County of San Francisco, a municipal corporation in the State of California, as hereinafter set forth in the certificate of the president and clerk of the board of supervisors of the city and county, as follows:

Whereas, The City and County of San Francisco, State of California, contains a population of over 500,000 inhabitants, and has been ever since the eighth day of January, in the year 1932, and is now organized and acting under a freeholders' charter adopted under and by virtue of Article XI of the Constitution of the State of California, which charter was duly ratified by the qualified electors of said city and county at an election held for that purpose on the twenty-sixth day of March, 1931, and approved by the Legislature of the State of California and filed in the Office of the Secretary of State on the fifth day of May, 1931 (Statutes of 1931, page 2973); and

Whereas, The governing body of said city and county, namely, the board of supervisors thereof, duly proposed to the qualified electors of the city and county twelve (12) amendments to said charter; and

Whereas, Said governing body in accordance with the provisions of Article XI of the Constitution of the State of California and the provisions of Chapter 3, Part I, Division 2, Title 4 of the Government Code of the State of California, did cause said twelve (12) proposed amendments to said charter to be published, once in the official newspaper of the said City and County of San Francisco and each edition thereof issued or published on the date of said publication, to wit, in the "San Francisco Examiner," a newspaper of general circulation in the City and County of San Francisco and the official newspaper of said city and county; and

Whereas, Said governing body caused copies of said charter amendments to be printed in convenient pamphlet form and in type of not less than 10-point, and caused copies thereof to be mailed to each of the qualified electors of said City and County of San Francisco, and until the day fixed for the election upon said charter amendments advertised in said "San Francisco Examiner," a

newspaper of general circulation in the City and County of San Francisco, a notice that copies of said charter amendments could be had upon application therefor at the office of the board of supervisors; and

Whereas, The said governing body of said city and county ordered placed upon the ballot at the General Municipal and Special State Election held in the City and County of San Francisco on the fifth day of November, 1974, the said twelve (12) several proposals to amend the Charter of the City and County of San Francisco; and

Whereas, Said General Municipal and Special State Election was held in said City and County of San Francisco on the fifth day of November, 1974, which day was more than 40 days and less than 60 days from the completion of the publication of said proposed charter amendments for one day in said "San Francisco Examiner," and each edition thereof as hereinbefore set forth; and

Whereas, The registrar of voters did, in the manner provided by law, duly and regularly canvass the returns of said election, and on the tenth day of December, 1974, duly certify to the board of supervisors the results of said Direct Primary Election as determined from the canvass of the returns thereof; and

Whereas, At said General Municipal and Special State Election so held on the fifth day of November, 1974, nine (9) of said proposed amendments were ratified by a majority of the electors of said City and County voting thereon, to wit, charter amendments designated as propositions B, C, D, G, H, I, J, K and M, and three (3) other charter amendments submitted at said General Municipal and Special State Election, to wit, charter amendments designated as propositions E, F and L, received less than a majority of the votes of the electors voting thereon and were not ratified; and

Whereas, The said charter amendments so ratified by the electors of the City and County of San Francisco are now submitted to the Legislature of the State of California for approval or rejection as a whole without change by resolution of said Legislature in accordance with the provisions of Section 3 of Article XI of the Constitution of the State of California, and are in words and figures as follows.

CHARTER AMENDMENT

Proposition B

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by amending Section 7.501 thereof, relating to zoning amendments and the percentage of votes necessary to disapprove actions of the City Planning Commission

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on November 5, 1974, a proposal to amend the Charter of said city and county by amending Section 7.501

thereof, to read as follows:

7.501 Zoning Amendments

The city planning commission shall consider and hold hearings on proposed ordinances and amendments thereto regulating or controlling the height, area, bulk, setbacks, location, use or related aspects of any building or structure or land, including but not limited to the zoning ordinance and other portions of the city planning code. Such proposals may be initiated by the board of supervisors and referred to the commission, or they may be initiated by the commission itself. In the case of a reclassification of property (change in district boundaries) or establishment, abolition or modification of a setback line, such proposals may be initiated by the application of interested property owners or their authorized agents.

Procedures for action on such matters shall be as prescribed by the board of supervisors by ordinance. The commission shall approve any such proposal in whole or in part, or shall disapprove it.

If the commission approves the proposal in whole or in part, it shall be presented to the board of supervisors together with the written approval of the commission, and the board may adopt such proposal, as approved, by ordinance by a majority vote.

If the commission disapproves the proposal in whole or in part, such action shall be final; except that in the case of a proposal initiated by the board, notice of the commission action shall be sent to the board without the necessity for an appeal; and except further that, in the case of a reclassification of property or a conditional use, or establishment, abolition or modification of a setback line initiated by application, appeal may be taken to the board of supervisors by filing written notice of appeal with the said board within thirty days after such action. Such notice of appeal shall be subscribed by the owners of at least twenty per cent of the property affected by such change, excluding any property that is owned by the City and County of San Francisco, the United States Government or the State of California, or any department or agency thereof, or by any special district, unless the owner of such property shall itself be a subscriber of the notice of appeal. An action of the city planning commission so appealed shall not become effective unless and until approved by the board of supervisors in accordance with this section.

Upon receiving such written notice of appeal, the board of supervisors or the clerk thereof shall set a time and place for hearing such appeal, which shall be not less than ten (10) nor more than thirty (30) days after the filing of such notice of appeal. The board of supervisors must decide such appeal within thirty (30) days of the time set forth for the hearing thereon, provided that, if the full membership of the board is not present on the last day on which said appeal is set or continued for hearing within said period, the board may postpone said hearing and decision thereon until, but not later than, the full membership of the board is present; provided, further, that the latest date to which said hearing and decision may be so

postponed shall be not more than ninety (90) days from the date of filing of the appeal. Failure of the board of supervisors to act within such time limit shall be deemed to constitute approval by the board of the action of the city planning commission.

In acting upon any such appeal, or in acting upon any proposal initiated by the board of supervisors and disapproved by the commission said board of supervisors may disapprove the action of the commission, and in the event of any such disapproval, the board shall adopt the proposed ordinance or amendment thereto at the next regularly scheduled meeting of the board; provided, however, that in the case of any reclassification of property or a conditional use, or establishment, abolition or modification of a setback line, any such disapproval and adoption shall be by a vote of not less than two-thirds of all members of the board; except that in the event that one or more of the full membership of the board is disqualified or excused from voting because of an interest prohibited by general law or this charter, any such disapproval and adoption shall be by a vote of not less than two-thirds of all members of the board that are not disqualified or excused; provided, however, that in the event that a quorum of all members of the board is disqualified or excused from voting because of an interest prohibited by general law or this charter, the action of the city planning commission shall be deemed approved.

Whenever any such proposed ordinance or amendment thereto, or any part thereof, initiated by application, has been disapproved by the city planning commission or by the board of supervisors on appeal, no application proposing the same or substantially the same ordinance or amendment shall be resubmitted to or reconsidered by the commission within a period of one year from the effective date of final action upon the earlier application.

CHARTER AMENDMENT

Proposition C

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by amending Section 9.112 thereof, relating to material on measures to be mailed to the voters of said city and county.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on November 5, 1974, a proposal to amend the Charter of said city and county by amending Section 9.112 thereof, to read as follows:

9.112 Material on Measures Mailed to Voters

Whenever any measure is required by this charter to be submitted to the voters of the city and county at any election, the registrar shall cause the measure or policy to be printed in pamphlet form and shall mail the same with a sample ballot to each voter, at least ten days prior to the election. This pamphlet may include any other matter required to be printed and mailed. The board of supervisors shall, by ordinance, provide for the format of said pamphlet and for the submission, review, selection, printing and inclusion of arguments in favor of or in opposition to any measure contained in said pamphlet.

With or upon the sample ballot mailed to each voter prior to a recall election, there shall be transmitted the reasons for demanding the recall of the officer as set forth in the recall petition, printed in not more than three hundred words, and with or upon the same ballot the printed statement of the officer in not more than three hundred words justifying his course in office.

Immediately after introduction in the board of supervisors, or filing with the clerk thereof, of any measure to be submitted to the voters, or of the filing of a petition of the voters for submission of any proposed amendment of the charter, in accordance with the provisions of article XI, section 3, of the constitution of California, the clerk of the board shall deliver a copy of such proposition to the controller. The controller shall thereupon prepare and transmit to the board of supervisors an impartial financial analysis of the measure, which shall include the amount of any increase or decrease in the cost of government of the city and county and its effect upon the tax rate. Such analysis shall be in form appropriate for mailing to the voters with a sample ballot. Upon vote of submission of any such proposition, and as to all propositions to create a bonded debt, the controller shall transmit a copy of such analysis in relation thereto to the registrar of voters, who shall mail one copy thereof to each voter with the sample ballot.

CHARTER AMENDMENT

Proposition D

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by amending Section 6.306 thereof, to require a two-thirds vote on certain supplemental appropriation ordinances.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on November 5, 1974, a proposal to amend the Charter of said city and county by amending Section 6.306 thereof, to read as follows:

6.306 Cash Reserve Fund and Supplemental Appropriations

Unused and unencumbered appropriations or unencumbered balances existing at the close of any fiscal year in revenue or expense appropriations of the city and county for any such fiscal year, including such balances in revenue and expense appropriations provided under the provisions of section 6.400 (a) of this charter for libraries, parks and squares, playgrounds and civil service in any such fiscal year, but exclusive of revenue or money required by law to be held in school, bond, bond interest, bond redemption, pension, trust, utility or other specific funds, or to be devoted exclusively to specified purposes other than annual appropriations, and together with revenues collected or accruing from any source during any such fiscal year, in excess of the estimated revenue from such source as shown by the annual budget and the appropriation ordinance for such fiscal year, shall be transferred by the controller, at the closing of such fiscal year, to a "cash reserve fund" which is hereby created and which may be used only in the manner authorized by section 6.304 of this charter; provided, however, that when the balance in said cash reserve fund shall equal ten (10) per centum of the current or the last preceding tax levy no such transfer shall be made by the controller except on the recommendation of said controller, the approval of the mayor and the authorization of the board of supervisors, by majority vote.

Such unused and unencumbered appropriations, balance and revenue collections in excess of revenue estimates, as hereinbefore in this section defined, when not transferred to the cash reserve fund as hereinbefore in this section required or authorized, shall be held as surplus.

Such surplus shall be taken into account as revenue of the ensuing fiscal year; provided, however, that any such surplus created or existing in any fiscal year may be appropriated by the board of supervisors by means of an ordinance designated as a supplemental appropriation ordinance, on the recommendation of the chief administrative officer, or any board, commission or elective officer, respectively, and the approval and submission by the mayor of a supplemental budget estimate or request, in the same manner and subject to the same conditions, except time, as provided in this charter for the submission and approval of the annual budget and the appropriation ordinance.

In the event the chief administrative officer, or any board, commission or elective officer shall recommend a supplemental appropriation ordinance subsequent to the adoption of the budget for any fiscal year and prior to the close of said fiscal year containing any item which had been rejected by the mayor in his review of departmental budget estimates for said fiscal year or which had been rejected by the board of supervisors in its consideration of the mayor's proposed budget for said fiscal year, it shall require a vote of two-thirds of all members of the board of supervisors to approve such supplemental appropriation ordinance.

No ordinance or resolution for the expenditure of money, except the annual appropriation ordinance, shall be passed by the board of supervisors unless the controller first certify to such board that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the controller, revenues as anticipated in the appropriation ordinance for such fiscal year and properly applicable to meet such proposed expenditure will be available in the treasury in sufficient amount to meet the same as it becomes due.

CHARTER AMENDMENT

Proposition G

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by amending Section 8.565 thereof, to provide pensions to the widows of certain retired members of the Fire Department.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on November 5, 1974, a proposal to amend the charter of said city and county by amending Section 8.565 thereof to read as follows:

8.565 Members of Fire Department on January 8, 1932

Persons who are members of the fire department on the 8th day of January, 1932, shall become members of the retirement system on that date, subject only to the following provisions, in addition to the provisions contained in sections 3.670–3.672, 8.500–8.502, 8.510, 8.511, 8.520 and 8.560 of this charter.

a. Any member of the fire department who shall have completed twenty-five years of continuous service as a member of the fire department next preceding the date of his retirement, or any member of the fire department who shall have reached the age of fifty-five years and shall have completed twenty years of continuous service as a member of the fire department next preceding the date of his retirement, may retire from service at his option. Any member of the fire department who shall become physically disabled by reason of any bodily injury received in the performance of his duty may be retired from service on satisfactory proof thereof. The retirement board, by unanimous vote, may retire from service any aged, disabled or infirm member of the fire department who has arrived at the age of sixty years and who has completed twenty years of continuous service as a member of the department next preceding such age, who may be ascertained to be, by reason of such age, infirmity or other disability, unfit for the performance of his duties. Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half the amount of the salary

attached to the rank held by him three years prior to the date of his retirement hereinafter referred to as "pension" in this and the following section, provided that where such retirement is based on disability alone, in case the disability of such member shall cease, his pension shall cease, and he shall be restored to service in the rank he occupied at the time of his retirement. Should any said retired member die leaving a widow, who shall have been married to the decedent at least one year prior to the date of his retirement, such widow shall, as long as she may live and remain unmarried, be paid said pension; provided, further, that the widow of any said retired member who married said member after the effective date of his retirement and at least one year prior to his death shall be paid said pension for time after December 31, 1974, as long as she may live and remain unmarried; provided, further, that should said widow die leaving a child or children under the age of sixteen years, said pension shall continue to be paid such child or such children collectively until the youngest child arrives at the age of sixteen years; and provided further, that should said retired member die leaving no widow but leaving an orphan child or children under the age of sixteen years, such child or children collectively shall receive said pension until the youngest child attains the age of sixteen years.

b The family of any member of the fire department who shall die as a result of any injury received during the performance of his duty, or from sickness clearly, unmistakably and directly caused by and resulting from the discharge of such duty, or while eligible for a pension on account of years of service in the department, or who has served twenty consecutive years in the department and attained the age of fifty-five years, shall receive the following benefits

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, his widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury; provided that the widow of any said retired member who married said member after the effective date of his retirement and at least one year prior to his death shall be paid said pension for time after December 31, 1974, as long as she may live and remain unmarried; provided, however, that should said widow die, leaving a child or children under the age of sixteen years, said pension shall continue to such child or children collectively until the youngest child arrives at the age of sixteen years.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of sixteen years, such child or such children collectively shall receive said pension until the youngest child attains the age of sixteen years.

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents dependent solely upon him for support, such parents so depending shall collectively receive said pension during such time as the retirement board may unanimously

determine its necessity.

c. When any member of the department shall die from natural causes and before retirement, and when no pension is payable to his widow or children, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for payment of which shall be determined in the manner prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

d. In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which shall be equal to the liabilities accruing under the retirement system because of service rendered during such year by persons becoming members on the 8th day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contribution by the city and county was not sufficient to meet such liability, then the city and county shall make such additional contribution as may be necessary to make up the deficit.

e. No benefits shall be provided under the retirement system for, nor shall any contributions be required of, persons who become members of the retirement system under this section, in addition to the benefits specifically provided and contributions specifically required in such section. Any pension payable because of the death or retirement of any such person shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits payable to or on account of such person, under the Workmen's Compensation Insurance and Safety Law of the State of California.

f. Persons who are members of the fire department on the 8th day of January, 1932, shall have the option, to be exercised in writing on or before the 1st day of July, 1932, of becoming members of the retirement system under the provisions of section 8.567, which applies to persons who become members of the department after the 8th day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then they shall not receive any benefit under this section, but shall become members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the 8th day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to the 8th day of January, 1932, by contributions of the city and county, which pension shall be the same percentage, regardless of the age of retirement, of his final compensation, as defined by the

board of supervisors, for each year of service, as the contributions of the member and the city and county are calculated to provide upon retirement at age fifty-five for each year of service rendered as a member of the retirement system.

The amendments of subsections a. and b. of this section contained in the proposition therefor submitted to the electorate on November 5, 1974, do not and shall not give any person any claim against the city and county for any pension for time prior to January 1, 1975.

CHARTER AMENDMENT

Proposition H

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by adding Sections 8.558 and 8.582 thereto, relating to retirement and death allowances payable to or on account of members of the Police and Fire Departments.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on November 5, 1974, a proposal to amend the Charter of said city and county by adding Sections 8.558 and 8.582 thereto, to read as follows:

8.558 Definition of "final compensation"—Allowances first payable prior to July 1, 1975.

Notwithstanding any other provision of this charter, but solely with respect to the determination of the amount of each retirement allowance payable to or on account of a person who retired for service or because of disability under the provisions of section 8.544 of the charter prior to July 1, 1975, "final compensation", for time commencing on July 1, 1975, shall mean the rate of remuneration (excluding remuneration for overtime) attached on July 1, 1975, to the rank or position upon which such person's retirement allowance was determined when first effective; provided, further, that each such allowance shall be increased or decreased as of July 1, 1976, and on July 1 of each succeeding year by an amount equal to 50% of the rate of change in the salary attached to said rank multiplied by the allowance which was payable for the month immediately preceding such July 1.

This section does not give any person retired under the provisions of said section 8.544, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1975.

This section does not authorize any decrease in the amount of any allowance from the amount being paid as of June 30, 1975.

No retirement allowance to which the definition of "final compensation" as set forth in this section is applicable shall be subject to adjustment under the provisions of section 8.526 for time

commencing July 1, 1975. Contributions, with interest credited thereon, standing to the credit of a person whose retirement allowance is subject to the provisions of this section and which were made by such person pursuant to the provisions of section 8.526 shall, effective July 1, 1975, be combined with and administered in the same manner as such person's normal contributions. Contributions, with interest credited thereon, made by or charged against the city and county and standing to its credit on account of a person whose retirement allowance is subject to the provisions of this section and which were made by or charged against the city and county for the purposes of said section 8.526 shall be applied to provide the benefits under this section.

8.582 Definition of "final compensation"—Allowances first payable prior to July 1, 1975.

Notwithstanding any other provision of this charter, but solely with respect to the determination of the amount of each retirement allowance payable to or on account of a person who retired for service or because of disability under the provisions of section 8.568 of the charter prior to July 1, 1975, "final compensation", for time commencing on July 1, 1975, shall mean the rate of remuneration (excluding remuneration for overtime) attached on July 1, 1975 to the rank or position upon which such person's retirement allowance was determined when first effective; provided, further, that each such allowance shall be increased or decreased as of July 1, 1976, and on July 1 of each succeeding year by an amount equal to 50% of the rate of change in the salary attached to said rank multiplied by the allowance which was payable for the month immediately preceding such July 1.

This section does not give any person retired under the provisions of said section 8.568, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1975.

This section does not authorize any decrease in the amount of any allowance from the amount being paid as of June 30, 1975.

No retirement allowance to which the definition of "final compensation" as set forth in this section is applicable shall be subject to adjustment under the provisions of section 8.526 for time commencing July 1, 1975. Contributions, with interest credited thereon, standing to the credit of a person whose retirement allowance is subject to the provisions of this section and which were made by such person pursuant to the provisions of section 8.526 shall, effective July 1, 1975, be combined with and administered in the same manner as such person's normal contributions Contributions, with interest credited thereon, made by or charged against the city and county and standing to its credit on account of a person whose retirement allowance is subject to the provisions of this section and which were made by or charged against the city and county for the purposes of said section 8.526 shall be applied to provide the benefits

under this section

CHARTER AMENDMENT

Proposition I

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said City and County by amending Section 3.510 thereof, relating to the Employee Relations Director.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said City and County at an election to be held therein on November 5, 1974, a proposal to amend the Charter of said City and County by amending Section 3.510 thereof, so that the same shall read as follows:

Part Two: Administrative Departments under the Chief Administrative Officer

3.510 Finance and Records, Purchasing, Real Estate, Public Works, Electricity, Public Health, and County Agricultural Departments; Health Advisory Board; and Coroner's Office

The functions, activities and affairs of the city and county that are hereby placed under the direction of the chief administrative officer by the provisions of this charter, and the powers and duties of officers and employees charged with specific jurisdiction thereof, shall, subject to the provisions of section 11.102 and section 3.501 of this charter, be allocated by the chief administrative officer, among the following departments:

Department of Finance and Records, which shall include the functions and personnel of the offices of tax collector, registrar of voters, recorder, county clerk and public administrator, and shall be administered by a director of finance and records who shall be appointed by the chief administrative officer and hold office at his pleasure. The tax collector shall have power to examine the books of any business for which a license is issued and a fee charged on the basis of the receipts of such business, and for these purposes shall have the power of inquiry, investigation and subpoena, as provided by this charter.

The public administrator shall appoint and at his pleasure may remove an attorney. He may also appoint such assistant attorneys as may be provided by the budget and annual appropriation ordinance.

Purchasing Department, which shall include the functions and personnel of the bureau of supplies, the operation of central stores and warehouses, and the operation of central garages and shops, and shall be administered by the purchaser of supplies who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

Real Estate Department, which shall include the functions and

personnel of the office of the right-of-way agent and also the control, management and leasing of the exposition auditorium.

Department of Public Works, which shall include the functions and personnel of the telephone exchange and which shall be in charge of and administered by the director of public works, who shall be appointed by the chief administrative officer and shall hold office at his pleasure.

The director of public works shall appoint a city engineer, who shall hold office at the pleasure of said director. He shall possess the same power in the city and county in making surveys, plats and certificates as is or may from time to time be given by law to city engineers and to county surveyors, and his official acts and all plats, surveys and certificates made by him shall have the same validity and be of the same force and effect as are or may be given by law to those of city engineers and county surveyors.

All examinations, plans and estimates required by the supervisors in connection with any public improvements, exclusive of those to be made by the public utilities commission, shall be made by the director of public works, and he shall, when requested to do so, furnish information and data for the use of the supervisors.

The department of public works shall semi-annually notify the tax collector of the amount of each assessment that becomes delinquent and the lot and block number against which such assessment is levied, and it shall be the duty of the tax collector to note such delinquency on each annual tax bill.

The department of public works shall have powers and duties relating to street traffic, subject to the laws relating thereto, as follows: (a) to cooperate with and assist the police department in the promotion of traffic safety education; (b) to receive, study and give prompt attention to complaints relating to street design or traffic devices or the absence thereof; (c) to collect, compile, analyze and interpret traffic and parking data and to analyze and interpret traffic accident information; (d) to engage in traffic research and traffic planning; and (e) to cooperate for the best performance of these functions with any department and agency of the city and county and the state as may be necessary.

The department shall submit to the traffic bureau of the police department, for its review and recommendation, all proposed plans relating to street traffic control devices; provided, however, that the bureau may waive submission and review of plans of particular devices designated by it. Failure of the said traffic bureau to submit to the department its recommendation on any proposed plan within fifteen (15) days after receipt shall be considered an automatic approval of said traffic bureau. The department shall not, with respect to any traffic control devices, implement such plan until the recommendation of the traffic bureau has been reviewed or until the fifteen (15) day period has elapsed.

Department of Electricity, which shall be administered by a chief of department. The premises of any person, firm or corporation may,

for the purpose of police or fire protection, be connected with the police or fire signal or telephone system of the city and county upon paying a fair compensation for such connection and the use of the same, provided that any such connection shall require the approval of the chief of the department of electricity and shall not in any way overload or interfere with the proper and efficient operation of the circuit to which it is connected. The conditions upon which such connection shall be made and the compensation to be paid therefor shall be fixed by the board of supervisors by ordinance upon the recommendation of the chief of the department.

Department of Public Health, which shall be administered by a director of health, who shall be a regularly licensed physician or surgeon in the State of California, with not less than ten years' practice in his profession immediately preceding his appointment thereto. He shall be appointed by the chief administrative officer and shall hold office at his pleasure.

The chief administrative officer shall have power to appoint and to remove an assistant director of public health for hospital services, who shall be responsible for the administrative and business management of the institutions of the department of public health, including, but not limited to, the San Francisco General Hospital, Laguna Honda Home, Hassler Health Home, and the Emergency Hospital Service, and who shall be exempt from the civil service provisions of the charter. The position of assistant director of public health for hospital services shall be held only by a person who possesses the educational and administrative qualifications and experience necessary to manage the institutions of the department of public health.

The director of public health shall have power to appoint and remove an administrator of San Francisco General Hospital who shall be exempt from the civil service provisions of the charter. The position of administrator shall be held only by a physician or hospital administrator who possesses the educational and administrative qualifications and experience necessary to manage the San Francisco General Hospital.

Health Advisory Board. There is hereby created a health advisory board of seven members, three of whom shall be physicians and one a dentist, all regularly certificated. Members of the board shall serve without compensation. They shall be appointed by the chief administrative officer for terms of four years; provided, however, that those first appointed shall classify themselves by lot so that the terms of one physician and one lay member shall expire in 1933, 1934 and 1935, respectively, and the term of one member in 1936.

Such board shall consider and report on problems and matters under the jurisdiction of the department of public health and shall consult, advise with and make recommendations to the director of health relative to the functions and affairs of the department. The recommendations of such board shall be made in writing to the director of health and to the chief administrative officer.

Coroner's office, which shall include the functions and personnel of the existing office of coroner as established at the time this charter shall go into effect.

County Agricultural Department, which shall be administered by a county agricultural commissioner and shall include functions established by state law and those assigned to it by or in accordance with provisions of this charter.

Department of Weights and Measures, which shall include the functions and personnel of the office of sealer of weights and measures as established at the time this charter shall go into effect.

The employee relations director shall be appointed by the chief administrative officer and shall hold office at his pleasure.

CHARTER AMENDMENT

Proposition J

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by adding Section 6.413 thereto, establishing an Open Space Acquisition and Park Renovation Fund.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on November 5, 1974, a proposal to amend the Charter of said city and county by adding Section 6.413 thereto, so that the same shall read as follows:

6.413 Open Space Acquisition and Park Renovation Fund.

(a) There is hereby established an open space acquisition and park renovation fund, to be administered by the recreation and park commission. Monies therein shall be appropriated, transferred, expended, or used as provided for herein for those recreation and open space purposes determined by the city planning commission to be consistent with the recreation and open space element of the comprehensive plan of the city and county and in accordance with the "Recreation and Open Space Programs" to implement the recreation and open space element approved by the city planning commission on July 19, 1973, as from time to time modified by a majority vote of each of the city planning commission and recreation and park commission meeting jointly, and with the concurrence of the board of supervisors. The recreation and open space element of the comprehensive plan and the "Recreation and Open Space Programs", as from time to time modified, shall continue to identify neighborhoods which are in special need of recreation and open space facilities, and shall designate such neighborhoods as "high-need neighborhoods". Monies in the open space acquisition and park renovation fund shall be used to acquire by purchase, lease, exchange, eminent domain or otherwise, real property, interests therein, and improvement and development rights thereon and to

develop and maintain land so acquired. Lands currently under the jurisdiction of the San Francisco port commission may be acquired by lease or otherwise and may be leased and administered with the funds provided for herein for purposes consistent with this section. The recreation and park commission and the San Francisco port commission are hereby authorized to enter into contracts appropriate to carry out the purposes of this section.

(b) There is hereby imposed, pursuant to section 6.400 (a) (3) (d) of this charter, for a period of fifteen (15) years starting with the fiscal year 1975–76, an annual tax of ten cents ($0.10) for each one hundred dollars ($100.00) assessed valuation to be utilized for the purposes provided for in this section. Revenues obtained thereby shall be in addition to, and not in place of, any sums normally budgeted for the recreation and park commission, and, together with interest earned thereon, shall be deposited into the open space acquisition and park renovation fund. In addition, all grants, gifts, and bequests paid to the city and county for open space acquisition and park renovation, and interest earned thereon, unless otherwise restricted, shall be deposited into the fund. Establishment of this fund is not intended to preclude any other similar programs or any similar use of funds by the city and county. All amounts paid into said fund shall be maintained by the treasurer, separate and apart from all other city and county funds, and shall be secured by his or her official bond.

(c) Monies in the fund shall be used for: (i) the acquisition and development of lands within or contiguous to "high-need neighborhoods", or lands on the northern waterfront and bay shoreline for recreation purposes; (ii) the acquisition and development of properties within the city and county for open space purposes; and (iii) the renovation of existing parks and recreation facilities within the city and county.

(d) Each year monies in the fund shall be used to match, on a dollar-for-dollar basis, private funds, grants, or donations given to the city and county for the purpose of renovating existing parks and recreational facilities up to an amount equal to fifteen per cent (15%) of the amount of the monies provided for the fund in that year. Each year monies in the fund shall be used without a matching requirement for the purpose of renovating existing parks and recreational facilities up to an amount equal to ten per cent (10%) of the amount of the monies provided for the fund in that year. Monies unspent in either category of this subsection after the end of one fiscal year shall be carried forward to the next fiscal year and shall be used only for the same purposes as they were originally set aside.

The remaining monies shall be used as hereafter indicated in subsection (e).

(e) In each of the first five years of the fund's existence, a minimum of fifty per cent (50%) of the remainder of the monies in the fund shall be used to acquire real property, and at least

twenty-five per cent (25%) of the remainder of the monies in the fund shall be used for acquisition of properties within or contiguous to "high-need neighborhoods"; the balance of the remainder of the monies in the fund shall be used for administrative expenses and the maintenance and development of properties acquired through the fund.

At any time after the end of five years, the proportion of funds to be used for acquisition as herein set forth may be modified by the board of supervisors. At any time after the end of ten years, if the then-current "Recreation and Open Space Programs" no longer shows any lands appropriate for open space and recreation purposes, then the limitation that funds may only be used for the maintenance and development of properties acquired from the fund may be modified in whole or in part by the board of supervisors to provide that funds may be used to expand the maintenance and development of other properties held by the recreation and park department in "high-need neighborhoods" identified in the then-current "Recreation and Open Space Programs"

(f) The recreation and park commission and the city planning commission shall hold at least one joint public meeting annually and shall at such time receive and review a report from the general manager of the recreation and park department on the implementation of the "Recreation and Open Space Programs", on expenditures made from the open space acquisition and park renovation fund, and on properties developed in the preceding year for recreation uses. The general manager of the recreation and park department shall also make general recommendations of further lands for acquisition, improvement, or development for approval by a majority of each of the recreation and park commission and the city planning commission meeting jointly, and with the concurrence of the board of supervisors.

CHARTER AMENDMENT

Proposition K

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by amending Sections 3.552 and 3.641 thereof, relating to the powers and duties of the Recreation and Park Commission and to the California Academy of Sciences.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on November 5, 1974, a proposal to amend the Charter of said city and county by amending Sections 3.552 and 3.641 thereof, to read as follows:

3.552 Powers and Duties

The recreation and park commission shall have the complete and exclusive control, management and direction of the parks, playgrounds, recreation centers and all other recreation facilities, squares, avenues and grounds which are in the charge of the commission on the effective date hereof, or are thereafter placed in the charge of the commission, except as in this charter otherwise provided.

It shall also have power to construct new parks, playgrounds, recreation centers, recreation facilities, squares and grounds, and to erect and maintain buildings and structures on parks, playgrounds, squares, avenues and grounds, provided that all plans, specifications and estimates in connection therewith shall be prepared by the department of public works and be subject to approval by the recreation and park commission; provided, further, that no building or structure, except a building or structure necessary for maintenance, shall be erected, enlarged or expanded in Golden Gate Park unless the question of the erection, enlargement or expansion of said building or structure has been approved by a ⅔ vote of all the members of the board of supervisors. As used herein, the term "building or structure necessary for maintenance" shall mean nurseries, equipment storage facilities and comfort stations.

All contracts or orders for the work to be performed under such plans and specifications shall be awarded and executed by the director of public works with the approval of the recreation and park commission and shall be administered by the director of public works.

It shall be the duty of the recreation and park commission to make provision for the funds required for the operation and continuance of the duties herein assigned to the department of public works.

The persons performing the functions and duties transferred from the recreation and park department to the department of public works shall be transferred therewith, and such employees shall retain in the department of public works the same salary and civil service seniority status as they had in the recreation and park department.

It shall be the policy of the commission to promote and foster a program providing for organized public recreation of the highest standard.

The commission, through the general manager, shall utilize the property under its control and organize the personnel under its direction, to the end that all functions of the department be performed with the greatest possible efficiency.

3.641 Relationship with City and County

In addition to all other approvals required by law, plans for all proposed buildings and improvements of the california academy of sciences including any additions, must be approved by the recreation and park commission and the art commission. The recreation and park commission is hereby authorized, subject to approval by the

board of supervisors by ordinance, and subject to the provisions of section 3.552 of the charter, to set apart from time to time such portions of property under its control, as may be required for such buildings and improvements, sufficient grounds being allotted to secure the safety of the same from fire.

The erection of buildings or additions to buildings shall not be started by the california academy of sciences until it shall have submitted a statement satisfactory to the recreation and park commission of its ability to finance the proposed work to completion. All buildings and improvements heretofore or hereafter erected by or under the authority of said california academy of sciences in or on property owned or controlled by the City and County of San Francisco are and shall become the property of the City and County of San Francisco, but said buildings and improvements and all persons employed therein or thereabout shall be used and controlled exclusively by the said california academy of sciences under such proper rules and regulations as it may prescribe, subject, however, to the charter provisions relating to civil service and salary standardization with respect to employees of the city and county. The board of supervisors shall, by ordinance, prescribe the insurance to be furnished by the california academy of sciences to save the city and county harmless from claims for damages to persons or property arising from the construction or use of any of said buildings. Reasonable and appropriate charges may be made by the california academy of sciences for admission to or use of the Alexander F. Morrison Planetarium and auditorium.

CHARTER AMENDMENT

Proposition M

Describing and setting forth a proposal to the qualified electors of the City and County of San Francisco to amend the Charter of said city and county by adding Sections 8.559, 8.559-1, 8.559-2, 8.559-3, 8.559-4, 8.559-5, 8.559-6, 8.559-7, 8.559-8, 8.559-9, 8.559-10, 8.559-11, 8.559-12, 8.559-13 and Sections 8.585, 8.585-1, 8.585-2, 8.585-3, 8.585-4, 8.585-5, 8.585-6, 8.585-7, 8.585-8, 8 585-9, 8.585-10, 8.585-11, 8.585-12 and 8.585-13 thereto, relating to retirement and death benefits of members of the Police and Fire Departments.

The Board of Supervisors of the City and County of San Francisco hereby submits to the qualified electors of said city and county at an election to be held therein on November 5, 1974, a proposal to amend the charter of said city and county by adding Sections 8.559, 8.559-1, 8.559-2, 8.559-3, 8.559-4, 8.559-5, 8 559-6, 8.559-7, 8.559-8, 8.559-9, 8.559-10, 8.559-11, 8.559-12, 8.559-13 and Sections 8.585, 8.585-1, 8.585-2, 8.585-3, 8.585-4, 8.585-5, 8.585-6, 8.585-7, 8.585-8, 8.585-9, 8.585-10, 8.585-11, 8.585-12 and 8.585-13 thereto, to read as follows:

8.559 Members of the Police Department on and after July 1, 1975

Notwithstanding the provisions of section 8.544 of this charter, members of the police department, as defined in section 8.559-1, who are members of the retirement system under section 8.544 on the effective date of this section and persons who become members of the retirement system under section 8.544 after said effective date and prior to July 1, 1975, shall have the option, to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than June 30, 1975, of being members of the system under this section instead of said section 8.544, the election pursuant to said option to be effective as of July 1, 1975; provided that such of said members who, during the period from the effective date of this section through June 30, 1975, are absent by reason of service in the armed forces of the United States or by reason of any other service included in section 8.520(a) of this charter shall have the same option of electing to be members under this section instead of section 8.544, until ninety days after their return to service in the police department.

Those persons who become members of the police department, as defined in section 8.559-1, on or after July 1, 1975, and those persons who elect to be members under this section as provided in the preceding paragraph, shall be members of the system subject to the provisions of sections 8.559, 8.559-1, 8.559-2, 8.559-3, 8.559-4, 8.559-5, 8.559-6, 8.559-7, 8.559-8, 8.559-9, 8.559-10, 8.559-11, 8.559-12 and 8.559-13 (which shall apply only to members under section 8.559) in addition to the provisions contained in section 3.670 to 3.672, both inclusive, and sections 8.500, 8.510 and 8.520 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of section 8.544 of this charter.

8.559-1 Definitions

The following words and phrases as used in this section, section 8.559 and sections 8.559-2 through 8.559-13, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance", "death allowance" or "allowance", shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation", as distinguished from benefits under the Workmen's Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which

would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence, he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the police department, he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance", "retirement allowance", "death allowance" and "death benefit"

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation", as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation", as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

For the purpose of sections 8.559 through 8.559-13, the terms "member of the police department", "member of the department", or "member" shall mean any officer or employee of the police department, excluding such officers and employees as are members of the retirement system under section 8.565 or section 8.568 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1975, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron.

Any police service performed by such members of the police department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement

system

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

8.559-2. Service Retirement

Any member of the police department who completes at least twenty-five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under section 8.559-10, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to fifty-five per cent of the final compensation of said member, as defined in section 8.559-1, plus an allowance at the rate of four per cent of said final compensation for each year of service rendered in excess of twenty-five years; provided, however, that such retirement allowance shall not exceed seventy-five per cent of said member's final compensation. A member retired after attaining the age of sixty-five years, but before completing twenty-five years of service in the aggregate computed under section 8 559-10, shall receive a retirement allowance which bears the same ratio to fifty per cent of the final compensation of said member, as defined in section 8.559-1, as the service with which he is entitled to be credited bears to twenty-five years. If, at the date of retirement for service, or retirement for disability, resulting from an injury received in the performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section or section 8.559-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the

conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

8.559-3 Retirement for Incapacity

Any member of the police department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by the performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in section 8.559-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workmen's Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five (5) affirmative votes, adjust the percentage of disability as determined by said Appeals Board; and provided, further, that such retirement allowance shall be in an amount not less than fifty per cent nor more than ninety per cent of the final compensation of said member, as defined in section 8.559-1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in section 8.559-1, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty-five per cent of such final compensation.

If, at the time of retirement because of disability, he is qualified as to age and service for retirement under section 8.559-2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 8.559-2, but not less than fifty-five per cent of said final compensation. Any member of the police department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 8.559-10, shall be retired upon an allowance of one and one-half per cent of the final compensation of said member as defined in section 8.559-1 for each year of service, provided that said allowance shall not be less than thirty-three and one-third per cent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in section 8.559-10, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under section 8.559-2 as of the date of retirement

for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the Police Commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

8.559-4 Death allowance

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than fifty-five per cent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty-five per cent of such monthly final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under section 8.559 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member

leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

8 559-5 Payment to Surviving Dependents

Upon the death of a member of the police department resulting from any cause, other than an injury received in or illness caused by performance of duty, (a) if his death occurred after qualification for service retirement, under section 8.559-2, or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death or three-fourths of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until marriage, to his surviving wife, or (b) if his death occurred after the completion of at least twenty-five years of service in the aggregate but prior to the attainment of the age of fifty years, three-fourths of the retirement allowance to which he would have been entitled under section 8.559-2 if he had attained the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife, or (c) if his death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died, or (d) if his death occurred after completion of at least ten years of service in the aggregate, computed as provided in section 8.559-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to section 8.559-3 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after

marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under age of eighteen years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his death if he had retired.

As used in this section and section 8.559-4, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in section 8.559-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement", "Qualification for service retirement" or "Qualified as to age and service for retirement", as used in this section and other sections to which persons who are members under section 8.559 are subject, shall mean completion of twenty-five years of service and attainment of age fifty, said service to be computed under section 8.559-10.

8.559-6 Adjustment of Allowances

Every retirement or death allowance payable to or on account of any member under section 8.559 shall be increased or decreased as of July 1, 1976, and on July 1 of each succeeding year by an amount equal to fifty per cent of any increase or decrease, respectively, in the rate of remuneration attached to the rank or position upon which such retirement or death allowance was based; provided, however, that no allowance shall be reduced below the amount being received by a member or his beneficiary on June 30, 1976, or on the date such member or beneficiary began to receive the allowance, whichever is later.

8.559-7 Adjustment for Compensation Payments

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the city and county, shall be reduced in

the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workmen's compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

8.559-8 Death Benefit

If a member of the police department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under section 8.559-4 or 8.559-5 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

8.559-9 Refunds and Redeposits

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund, the amount refunded to him. Contributions, with interest, which are credited because of service rendered in any other office or department and which will not be counted under section 8.559-10, to any person who becomes a member of the retirement system under this section, shall be refunded to him forthwith. Should a member of the police department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the police department and he shall

receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues.

8.559-10 Computation of Service

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon reentry into service:

(1) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(2) Time during which said member served and received compensation as a jail matron in the office of the sheriff.

(3) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to July 1, 1949, provided that accumulated contributions on account of such service previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for purpose of determining qualification for retirement under section 8.559-3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after July 1, 1949, and receives compensation because of services rendered in other offices and departments.

(4) Time during which said member is absent from a status included in paragraphs (1), (2) or (3) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

8.559-11 Sources of Funds

All payments provided for members under section 8.559 shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The normal rate of contribution for each member under section 8.559 shall be based on his age taken to the next lower complete quarter year, (a) at the date he became a member under section 8.544, in the case of persons who are members under that section, or (b) on his age at the date he becomes a member under section 8.559 in the case of persons who become members on or after July 1, 1973, without credit for service counted under section 8.559-10.

The age of entrance into the police department shall be determined by deducting the member's service credited under section 8.559-10 as rendered prior to the date upon which his age is based for determination of his rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under section 8.559, shall be such as, on the average for such member, will provide, assuming service without interruption, under section 8.559-2, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed seven per cent.

(2) The dependent contributions of each member under this section which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under section 8.559-2, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under section 8.559-5 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital conditions, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between seven per cent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(3) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said

member, or shall be paid to said member or his estate or beneficiary as provided in sections 8.559-8, 8.559-9 and 8.559-10.

(4) Contributions based on time included in paragraphs (1), (2) and (3) of section 8.559-10, and deducted prior to July 1, 1975, from compensation of persons who become members under section 8.559, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, together with contributions made by such members pursuant to the provisions of section 8.526 and standing with interest thereon to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(5) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under section 8.559, shall be applied to provide the benefits under said section 8.559.

(6) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this section 8.559-11, to provide the benefits payable to members under section 8.559. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in paragraph (1) of this section 8.559-11, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under section 8.559, said percentage to be the ratio of the value on July 1, 1975, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value of said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said

periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be every odd-numbered year.

(7) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1975, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

8.559-12 Right to Retire

Upon the completion of the years of service set forth in section 8.559-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said section 8.559-2, and nothing shall deprive said member of said right.

8.559-13 Limitation in Employment During Retirement

No person retired as a member under section 8.559 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror, or in the preparation for, or the giving of, testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative body shall not be affected by this section.

8.585 Members of the Fire Department on and after July 1, 1975

Notwithstanding the provisions of section 8.568 of this charter, members of the fire department, as defined in section 8.585-1, who are members of the retirement system under section 8.568 on the effective date of this section and persons who become members of the retirement system under section 8.568 after said effective date and prior to July 1, 1975, shall have the option, to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than June 30, 1975, of being members of the system under this section instead of said section 8.568, the election pursuant to said option to be effective as of July 1, 1975; provided that such of said members who, during the period from the effective date of this section through June 30, 1975, are absent by reason of service in the armed forces of the United States

or by reason of any other service included in section 8.520(a) of this charter shall have the same option of electing to be members under this section instead of section 8.568, until ninety days after their return to service in the fire department.

Those persons who become members of the fire department, as defined in section 8.585-1, on or after July 1, 1975, and those persons who elect to be members under this section as provided in the preceding paragraph, shall be members of the system subject to the provisions of sections 8.585, 8.585-1, 8.585-2, 8.585-3 8.585-4, 8.585-5, 8.585-6, 8.585-7, 8.585-8, 8.585-9, 8.585-10, 8.585-11, 8.585-12 and 8.585-13 (which shall apply only to members under section 8.585) in addition to the provisions contained in sections 3.670 to 3.672, both inclusive, and sections 8.500, 8.510 and 8.520 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of section 8.568 of this charter.

8.585-1 Definitions

The following words and phrases as used in this section, section 8.585 and sections 8.585-2 through 8.585-13, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance", "death allowance" or "allowance", shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation", as distinguished from benefits under the Workmen's Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence, he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the fire department, he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance", "retirement allowance", "death allowance" and "death benefit".

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held,

provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation", as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation", as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

For the purpose of sections 8.585 through 8.585-13, the terms "member of the fire department", "member of the department", or "member" shall mean any officer or employee of the fire department, excluding such officers and employees as are members of the retirement system under section 8.565 or section 8.568 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean persons employed on July 1, 1975, or thereafter, regardless of age, to perform the duties performed under the titles of pilot of fireboats or marine engineer of fireboats or employed after July 1, 1975, at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties performed by members of the salvage corps in the fire department, or duties performed under the title of hydrant-gatemen.

Any fire service performed by such members of the fire department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

8.585-2 Service Retirement

Any member of the fire department who completes at least twenty-five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under section 8.585-10, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of sixty-five years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to fifty-five percent of the final compensation of said member, as defined in section 8.585-1, plus an allowance at the rate of four percent of said final compensation, for each year of service rendered in excess of twenty-five years; provided, however, that such retirement allowance shall not exceed seventy-five percent of said member's final compensation. A member retired after attaining the age of sixty-five years, but before completing twenty-five years of service in the aggregate computed under section 8.585-10, shall receive a retirement allowance which bears the same ratio to fifty percent of the final compensation of said member, as defined in section 8.585-1, as the service with which he is entitled to be credited, bears to twenty-five years. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or section 8.585-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

8.585-3 Retirement for Incapacity

Any member of the fire department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in section 8.585-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workmen's Compensation Appeals Board of the

State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five (5) affirmative votes, adjust the percentage of disability as determined by said Appeals Board; and provided, further, that such retirement allowance shall be in an amount not less than fifty percent nor more than ninety percent of the final compensation of said member, as defined in section 8.585-1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in section 8.585-1, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty-five percent of such final compensation.

If at the time of retirement because of disability, he is qualified as to age and service for retirement under section 8.585-2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under section 8.585-2, but not less than fifty-five percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least ten years of service in the aggregate, computed as provided in section 8.585-10, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in section 8.585-1 for each year of service, provided that said allowance shall not be less than thirty-three and one-third percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in section 8.585-10, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under section 8.585-2 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

8.585-4 Death Allowance

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next

following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than fifty-five percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than fifty-five percent of such monthly final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under section 8.585 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

8.585-5 Payment to Surviving Dependents

Upon the death of a member of the fire department resulting from any cause, other than an injury received in or illness caused by performance of duty, (a) if his death occurred after qualification for service retirement, under section 8.585-2, or after retirement for

service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death or three-fourths of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until marriage, to his surviving wife, or (b) if his death occurred after the completion of at least twenty-five years of service in the aggregate but prior to the attainment of the age of fifty years, three-fourths of the retirement allowance to which he would have been entitled under section 8.585-2 if he had attained the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife, or (c) if his death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died, or (d) if his death occurred after completion of at least ten years of service in the aggregate, computed as provided in section 8.585-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to section 8.585-3 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of eighteen years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of eighteen years. Should said member leave no surviving wife and no children under age of eighteen years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his death if he had retired.

As used in this section and section 8.585-4, "surviving wife" shall

mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in section 8.585-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement", "Qualification for service retirement" or "Qualified as to age and service for retirement", as used in this section and other sections to which persons who are members under section 8.585 are subject, shall mean completion of twenty-five years of service and attainment of age fifty, said service to be computed under section 8.585-10.

8.585-6 Adjustment of Allowances

Every retirement or death allowance payable to or on account of any member under section 8.585 shall be increased or decreased as of July 1, 1976, and on July 1 of each succeeding year by an amount equal to fifty percent of any increase or decrease, respectively, in the rate of remuneration attached to the rank or position upon which such retirement or death allowance was based; provided, however, that no allowance shall be reduced below the amount being received by a member or his beneficiary on June 30, 1976, or on the date such member or beneficiary began to receive the allowance, whichever is later.

8.585-7 Adjustment for Compensation Payments

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workmen's compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

8.585-8 Death Benefit

If a member of the fire department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under section 8.585-4 or 8.585-5 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

8.585-9 Refunds and Redeposits

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund, the amount refunded to him. Contributions, with interest, which are credited because of service rendered in any other office or department and which will not be counted under section 8.585-10, to any person who becomes a member of the retirement system under this section, shall be refunded to him forthwith. Should a member of the fire department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the fire department and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues.

8.585-10 Computation of Service

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon reentry into service:

(1) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(2) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to July 1, 1949, provided that accumulated contributions on account of such service previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for purpose of determining qualification for retirement under section 8.585-3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after July 1, 1949, and receives compensation because of services rendered in other offices and departments.

(3) Time during which said member is absent from a status included in paragraphs (1) and (2) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

8.585-11 Sources of Funds

All payments provided for members under section 8.585 shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) The normal rate of contribution for each member under section 8.585 shall be based on his age taken to the next lower complete quarter year, (a) at the date he became a member under section 8.568, in the case of persons who are members under that section, or (b) on his age at the date he becomes a member under section 8.585 in the case of persons who become members on or after July 1, 1975, without credit for service counted under section 8.585-10. The age of entrance into the fire department shall be determined by deducting the member's service credited under section 8.585-10 as rendered prior to the date upon which his age is based for determination of his rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under section 8.585, shall be such as, on the average for such member, will provide, assuming service without interruption, under section 8.585-2, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first

sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed seven percent.

(2) The dependent contributions of each member under this section which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under section 8 585-2, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under section 8.585-5 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital conditions, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between seven percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(3) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his estate or beneficiary as provided in sections 8.585-8, 8.585-9 and 8.585-10.

(4) Contributions based on time included in paragraphs (1), (2) and (3) of section 8.585-10, and deducted prior to July 1, 1975, from compensation of persons who become members under section 8.585, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, together with contributions made by such members pursuant to the provisions of section 8.526 and standing with interest thereon to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(5) The total contributions, with interest thereon, made by or

charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under section 8.585, shall be applied to provide the benefits under said section 8.585.

(6) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this section 8.585-11, to provide the benefits payable to members under section 8.585. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in paragraph (1) of this section 8.585-11, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under section 8.585, said percentage to be the ratio of the value on July 1, 1975, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value of said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be every odd-numbered year.

(7) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1975, and which are represented on said effective date, in the accounts of said system

by debits against the city and county.

8.585-12 Right to Retire

Upon the completion of the years of service set forth in section 8.585-2 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said section 8.585-2, and nothing shall deprive said member of said right.

8.585-13 Limitation in Employment During Retirement

No person retired as a member under section 8.585 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror, or in the preparation for, or the giving of, testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative body shall not be affected by this section.

State of California,
City and County of San Francisco } ss

This is to certify that we, Dianne Feinstein, President of the Board of Supervisors of the City and County of San Francisco, and Robert J. Dolan, Clerk of the Board of Supervisors of said city and county, have compared the foregoing proposed and ratified amendments to the Charter of said City and County of San Francisco with the original proposals which were submitted to the electors of said city and county at the General Municipal and Special State Election held on Tuesday, the fifth day of November, One Thousand Nine Hundred and Seventy Four, and find that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said amendments to said Charter are true.

In witness whereof, we have hereunto set our hands and caused the same to be authenticated by the seal of the City and County of San Francisco, this nineteenth day of February, One Thousand Nine Hundred and Seventy Five.

(SEAL)

DIANNE FEINSTEIN
President of the Board of
Supervisors of the
City and County of
San Francisco
ROBERT J. DOLAN
Robert J. Dolan
Clerk of the Board of
Supervisors of the
City and County of
San Francisco

Approved as to form:
THOMAS M. O'CONNOR
Thomas M. O'Connor
City Attorney

and

WHEREAS, The proposed amendments to the charter, as adopted and ratified as hereinabove set forth, have been and now are 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of these charter amendments; 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 and County of San Francisco, as proposed to, and adopted and ratified by, the electors of the city and county, as hereinabove fully set forth, are hereby approved as a whole, without alteration or amendment, for and as amendments to, and as part of, the Charter of the City and County of San Francisco.

RESOLUTION CHAPTER 24

Senate Concurrent Resolution No 15—Relative to the Joint Committee on Community Development and Housing Needs.

[Filed with Secretary of State March 25, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Community Development and Housing Needs is continued in existence until December 31, 1975, notwithstanding the provisions of any prior concurrent resolution affecting the committee. The membership of the committee shall be increased to eight by adding one Member of the Senate appointed by the Senate Rules Committee and one

Member of the Assembly appointed by the Speaker of the Assembly. The committee shall continue to have the powers and the duties granted and imposed by the resolution creating or continuing it. The committee may expend any funds heretofore or hereafter made available and further allocations may be made by the Joint Rules Committee; provided that, in accordance with Joint Rule 36.8, any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 25

Senate Concurrent Resolution No. 17—Relative to the Joint Committee on the Arts.

[Filed with Secretary of State April 2, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That paragraph 3 of the Resolved clause of Resolution Chapter 67 of the Statutes of 1974 is amended to read:

3. The committee shall consist of the following members:

(a) Three Members of the Senate appointed by the Senate Rules Committee.

(b) Three Members of the Assembly appointed by the Speaker of the Assembly.

The chairman of the committee shall be appointed by the Joint Rules Committee.

RESOLUTION CHAPTER 26

Senate Concurrent Resolution No. 11—Relative to memorializing the Honorable Lewis F. Sherman.

[Filed with Secretary of State April 10, 1975]

WHEREAS, It was with the most profound sorrow that the members learned of the passing of the Honorable Lewis F. Sherman, a distinguished Alameda County Superior Court judge, former Berkeley-Albany Municipal Court judge, and California State Senator, in Berkeley, on November 22, 1974, at the age of 57; and

WHEREAS, Judge Sherman received his bachelors degree from the University of California at Berkeley in 1946 and his law degree from Hastings College in 1949, where he was admitted into the Thurston Memorial Honor Society and the Order of the Coif; and

WHEREAS, Upon being admitted to the California State Bar, he established the firm of Sherman, Coward, MacDonald, and Gonser

in Berkeley, and as a member of the California Republican Assembly and a past vice president of the Berkeley Republican Assembly, he served in the State Senate from 1967 to 1970; and

WHEREAS, While in the state body, Judge Sherman became noted for his authorship of some far-seeing legislation, and upon the close of his exemplary tenure in the upper house he served the Berkeley-Albany Municipal Court; and

WHEREAS, A native of Glasgow, Montana, he spent his youth in southern California; served his country with honor and distinction during World War II as a fighter pilot in Europe; and, in his community, he was active as past chairman of the board of Lincoln University in San Francisco, past president of the Berkeley-Albany Bar Association and the Berkeley YMCA Men's Club, vice president of the Albany-North Berkeley Kiwanis, and member of numerous other organizations; and

WHEREAS, Judge Sherman is survived by his wife, Mary; his two children, Janet and Frank Sherman; two brothers, Laurence Sherman of Florida and Leslie Sherman of Redlands; and a sister, Mrs. Laura Willet of Montana; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members express their deepest sympathies at the passing of the Honorable Lewis F. Sherman, whose dedicated public service was of inestimable value to the citizens of Alameda County; and be it further

Resolved, That the Secretary of the Senate transmit suitably prepared copies of this resolution to Mrs. Mary M. Sherman, Miss Janet M. Sherman, and Mr. Frank G. Sherman.

RESOLUTION CHAPTER 27

Senate Concurrent Resolution No. 27—Relative to bills.

[Filed with Secretary of State April 10, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the following are adopted as temporary joint rules for the 1975–76 Regular Session of the Legislature:

First—Rule 54 is adopted to read:

Introduction of Bills

54. (a) Bills may be introduced at any time except when a house is in joint recess. Each house may provide for introduction of bills during a recess other than a joint recess. Bills shall be numbered consecutively during the regular session.

(b) A member may not author a bill during a session that would have substantially the same effect as a bill he or she had previously

introduced during that session. This restriction shall not apply in cases where a previously introduced bill has been vetoed by the Governor or has had its provisions "chaptered out" by a later chaptered bill pursuant to Section 9605 of the Government Code. An objection may be raised only while the bill is being considered by the house in which it is introduced. In such case the objection shall be referred to the Rules Committee of the house for a determination. The bill shall remain on file or with a committee, as the case may be, until such determination is made. If upon consideration of the objection the Rules Committee determines that the bill objected to would have substantially the same effect as another bill previously introduced during the session by the author, the bill objected to shall be stricken from the file or returned to the desk by the committee, as the case may be, and shall not be acted upon during the remainder of the session. If the Rules Committee determines that the bill objected to would not have substantially the same effect as a bill previously introduced during the session by the author, the bill may thereafter be acted upon by the committee or the house, as the case may be. The Rules Committee may obtain such assistance as it may desire from the Legislative Counsel as to the similarity of a bill or amendments to a prior bill. This joint rule may be suspended by approval of the Rules Committee and three-fourths vote of the house.

(c) During a joint recess, the Chief Clerk or Secretary shall order the preparation of preprint bills when so ordered by any of the following:

(1) The Speaker.

(2) The Committees on Rules of the respective houses.

(3) A committee with respect to bills within the subject matter jurisdiction of the committee.

Preprint bills shall be designated as such and shall be printed in the order received and numbered in the order printed. To facilitate subsequent amendment, preprint bills shall be so prepared that when introduced as a bill, the page and the line numbers will not change. The Chief Clerk and Secretary shall publish a list periodically of such preprint bills showing the preprint bill number, the title, and the Legislative Counsel's Digest. The Speaker and Senate Rules Committee may refer preprint bills to committee for study.

Second—That Rule 61 is adopted to read:

Deadlines

61. The following deadlines shall be observed by the standing committees of the Assembly and Senate:

(a) Odd-numbered year:

(1) Between the third Friday in May and September 16, the Secretary of the Senate and the Chief Clerk shall not receive from the fiscal committees of their respective houses a report concerning

bills introduced in and requiring further actions by that house, unless they were passed by a policy committee prior to the third Friday in May.

(2) Between the first Friday in June and September 16 the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee requiring further action on a bill that was introduced in their respective houses.

(3) Between June 20 and September 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from the fiscal committees concerning bills introduced in their respective houses.

(4) Between the last Friday in June and September 16, no bill shall be passed by the house in which it was introduced, other than on concurrence in amendments adopted in the other house.

(5) Between the third Monday in August and September 16, the Secretary of the Senate and the Chief Clerk shall not receive from the fiscal committees of their respective houses a report concerning bills requiring further action that were introduced in the other house, unless they were passed by a policy committee prior to the third Monday in August.

(6) Between the fourth Monday in August and September 16, no committee other than fiscal committees shall meet for the purpose of hearing any bill.

(7) Between September 1 and September 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from any committee requiring further action by their respective houses.

(b) Even-numbered year:

(1) After January 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning bills introduced in their respective houses during the odd-numbered year which require further consideration by the fiscal committee.

(2) After January 23, the Secretary of the Senate and the Chief Clerk shall not receive a report from any committee concerning bills introduced in their respective houses during the odd-numbered year, requiring further action in that house.

(3) After the first Friday in May, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning a bill introduced in their respective houses requiring further consideration by the fiscal committee of that house.

(4) After the fourth Friday in May, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning a bill introduced in their respective houses and requiring further action in that house.

(5) After the second Friday in June, the Secretary of the Senate and the Chief Clerk shall not receive a report from the fiscal committees concerning bills introduced in and requiring further action by that house

(6) After the next to last Friday in June, neither house shall pass bills introduced in that house.

(7) After August 10, the Secretary of the Senate and the Chief

Clerk shall not receive a report from a policy committee concerning bills introduced in the other house requiring further consideration by the fiscal committees.

(8) After August 20, the Secretary of the Senate and the Chief Clerk shall not receive a committee report concerning bills which require further action in their respective houses.

(c) If a bill is acted upon in committee before the relevant deadline and the committee votes to report the bill out with amendments that have not at the time of the vote been prepared by the Legislative Counsel, the Secretary of the Senate and the Chief Clerk may subsequently receive a report at any time within 48 hours after the deadline recommending the bill for passage or for re-referral together with the amendments.

(d) Bills in the house of origin not acted upon during the odd-numbered year as a result of the deadlines contained in paragraph (a) may be acted upon when the Legislature reconvenes after the interim study joint recess, or at any time the Legislature is recalled from such joint recess.

(e) The deadlines imposed by this rule shall not apply to the Rules Committees of the respective houses.

(f) The above deadlines shall not apply in instances where a bill is referred to committee under Senate Rule 29.1 and Assembly Rule 77.1 respectively.

(g) There shall be no committee meetings held during the week preceding the summer recess of each year.

(h) This rule may be suspended as to any particular bill by approval of the Rules Committee and two-thirds vote of the members of the house.

(i) Except as provided in subparagraph (a) (6) and subdivision (g) the deadlines imposed by this rule shall not apply to those bills which go into immediate effect pursuant to Article IV, Section 8(c).

RESOLUTION CHAPTER 28

Senate Joint Resolution No. 8—Relative to rollover protection standards for tractors.

[Filed with Secretary of State April 10, 1975]

WHEREAS, On February 1, 1974, federal standards were proposed in the Federal Register regarding safety devices on farm tractors; and

WHEREAS, There is evidence that tractors equipped with rollover protection devices in conformity with the proposed federal standards cannot operate efficiently and economically in orchards; and

WHEREAS, The use of rollover devices could severely damage

orchards, resulting in a waste of valuable food commodities, and could eventually lead to higher food prices and even food shortages; and

WHEREAS, The adaptation of rollover protection standards (ROPS) to older type tractors may prove to be impractical; and

WHEREAS, It is in the best interest of employees and employers alike that reasonable safety standards be established which provide protection to life and limb yet do not cause undue economic hardship; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Secretary of Labor to withhold the adoption of federal standards applicable to rollover protection standards (ROPS) for farm tractors and urges that further in-depth hearings be held under the provisions of the federal Occupational Safety and Health Act of 1970 (OSHA) in California and other leading agricultural states before adoption of any such standards affecting tractors used in orchards; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to the Secretary of Labor, to the Secretary of Agriculture, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 29

Senate Joint Resolution No. 15—Relative to development of waterborne commerce

[Filed with Secretary of State April 10, 1975]

WHEREAS, The Secretary of the Army, acting through the Chief of Engineers, is currently authorized to cooperate with any state in the preparation of comprehensive plans for development, utilization and conservation of water, waterborne commerce, and related resources by Section 22(a) of the Water Resources Development Act of 1974, Public Law 93-251; and

WHEREAS, A comprehensive program for the analysis of commodity flow to, and through, our state by means of maritime commerce and industry will assist the Governor, the Legislature, and various State of California agencies in reviewing and updating the California Transportation Plan and the California Coastal Zone Conservation Plan; and

WHEREAS, The State of California can establish a five-year program, with these moneys, to aid and assist the State of California's maritime commerce and industry with a comprehensive commodity flow analysis; and

WHEREAS, The services provided by the Secretary of the Army,

acting through the Chief of Engineers, will have a statewide benefit to California's utilization of water resources, waterborne commerce, and maritime industry; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to appropriate funds to the Secretary of the Army for the expenditure by the Chief of Engineers, through the South Pacific Division of the Corps of Engineers, to provide a comprehensive program of commodity flow analysis for waterborne commerce and the maritime industry in California in cooperation with the State of California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of the Army, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 30

Senate Concurrent Resolution No. 31—Relative to Volunteer Recognition Week.

[Filed with Secretary of State April 15, 1975]

WHEREAS, We are a nation of people who thrive on helping others as well as ourselves to a better life; and

WHEREAS, This nation was founded upon a spirit of volunteerism and today one out of every five Americans is making a gift of time and talent to some type of volunteer service—helping others or working for a cause—and this great grassroots movement is growing; and

WHEREAS, Anyone, old or young, rich or poor, can be a volunteer and reap the rich rewards that come from doing for others as well as from improving one's own skills and widening one's horizon; and

WHEREAS, Our communities and our country will benefit as more and more of us bestow the priceless gift that comes only when people give of themselves; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the California Legislature hereby proclaims the week of April 20 through 26, 1975, as Volunteer Recognition Week

RESOLUTION CHAPTER 31

Senate Concurrent Resolution No. 10—Relative to a Bikecentennial Route

[Filed with Secretary of State April 18, 1975]

WHEREAS, The California American Revolution Bicentennial Commission, in cooperation with the California Department of Transportation, has established a route which could be part of a national system of bike trails, in honor of the birth of our nation, under the "Bikecentennial 76" program of the National Bicentennial Commission; and

WHEREAS, The route would comprise portions of State Highway Route 5 from the Mexican border to Capistrano Beach, of State Highway Route 1 from Capistrano Beach to Leggett, and of State Highway Route 101 from Leggett to the California-Oregon state line, and such other alternate routes designated by the department and local jurisdictions; and

WHEREAS, This route would easily connect with east-west cross-country "Bikecentennial" routes which terminate in Reedsport, Oregon, and Santa Ana; and

WHEREAS, The route would pass some of the nation's most beautiful scenery, including vast redwood forests, Big Sur, wine country, and the Carmel-Monterey area, as well as portions of the historic Mission Trail; and

WHEREAS, Establishment of this route would be part of a larger effort by the department to develop long-distance bicycle routes which avoid toll bridges and other thoroughfares not properly traversable by bicyclists; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the above route hereby be officially designated a state Bikecentennial Route; and be it further

Resolved, That the department is hereby requested to erect and maintain appropriate signs on the route showing the official National Bicentennial symbol and to prepare adequate maps for bicyclists who may wish to use the route; and be it further

Resolved, That the designation of this route as a Bikecentennial Route remain in effect through 1983 and not negate the previous designation of portions of this route as the Cabrillo Highway, El Camino Real, and the Pacific Coast Highway; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the California American Revolution Bicentennial Commission and the Director of Transportation.

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RESOLUTION CHAPTER 32

Assembly Concurrent Resolution No. 55—Approving an amendment to the Charter of the City of Visalia, State of California, ratified by the qualified electors of the city at a special municipal election, consolidated with the statewide general election held therein on the fifth day of November, 1974.

[Filed with Secretary of State April 21, 1975]

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

CERTIFICATE OF AMENDMENT TO THE CHARTER OF THE CITY OF VISALIA, CALIFORNIA

State of California
County of Tulare
City of Visalia

We, S. Thomas Porter, Mayor of the Council of the City of Visalia, and Donna Hall, City Clerk of the City of Visalia, do hereby certify and declare as follows:

That said City of Visalia, in the County of Tulare, is now, and at all times herein mentioned: (a) a city containing 34,636 inhabitants as ascertained by the last preceding census taken under the authority of the Congress of the United States; (b) organized and existing under a charter, which charter was heretofore duly ratified by a majority of the electors of said City at an election held for that purpose on February 26, 1923.

That in accordance with the provisions of Article XI, Section 3 of the Constitution of the State of California and of Section 34459 of the California Government Code, the Council of the City of Visalia, being the legislative body of said City, on its own motion, duly and regularly submitted to the qualified electors of the City of Visalia, a proposal for the amendment of the Charter of said City to be voted upon by said qualified electors at a special election held on November 4, 1974, all as required by law, which said proposal was designated as City of Visalia Charter Amendment Measure, Proposition A.

That on September 17, 1974 the said amendment was published and advertised in accordance with Section 34461 of the California Government Code, in each and every edition of the Visalia Times Delta in the City of Visalia, a daily newspaper of general circulation printed and circulated in said City and being the official paper for said purpose; all as shown by the affidavit of publication on file in the

office of the City Clerk of said City.

That copies of said proposed charter amendments were printed and copies thereof could be had upon application therefor at the office of the City Clerk upon application therefor.

Said proposed charter amendment was submitted to the electors of said City for adoption and ratification at a special election held on November 4, 1974, which was not less than forty, nor more than sixty, days after completion of the advertising in the official paper of the proposed charter amendment aforesaid.

At said election a majority of the qualified electors voting upon the proposed charter amendment voted in favor thereof and adopted and ratified the same, as appears on the official canvass of the returns thereof by the County Clerk of the County of Tulare dated November 15, 1974, and by the declaration of the Council of said City of Visalia, which pursuant to law met on November 18, 1974, at its usual time and place of meeting, and duly declared the result of said electors in accordance with the canvass of the return as certified by the County Clerk.

That the said amendment to the City Charter of the City of Visalia, so adopted and ratified by the qualified electors of said City, and which shall be submitted to the Legislature for approval or rejection are in words and figures as follows:

PROPOSED CHARTER AMENDMENT

Article III, Section 2 is amended by adding the following:

(21) Emergency Powers. Notwithstanding any general or special provision of this Charter, the Council, in order to insure continuity of governmental operations in periods of emergency resulting from disasters of whatever nature, shall have the power and immediate duty:

(a) To provide for prompt and temporary succession to the powers and duties of all City officers, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and

(b) To adopt such other measures as may be necessary and proper for insuring the continuity of City operations, including, but not limited to, the financing thereof. In the exercise of the powers hereby conferred, the Council in all respects shall conform to the requirements of this Charter except to the extent that in the judgment of the Council so to do would be impractical or would admit of an undue delay.

Article IV, Section 1 is amended to read as follows:

Section 1. The officers of the City of Visalia shall be five members of the Council, members of the Board of Education, five Library Trustees, a City Manager, a City Clerk, and a City Attorney. The Council may also provide by ordinance for additional offices and

for the duties thereof, and for additional duties of officers herein provided for, but in no such manner as to encroach upon the duties of any officer as provided for by this Charter. The Council may also provide by ordinance for such subordinate officers, assistants, deputies, clerks and employees in the several offices and departments as they deem necessary. The members of the Council and the members of the Board of Education shall be elected from the City at large, as provided in this Charter; provided, however, that all qualified electors of the Visalia Unified School District shall also have the right to vote for members of the Board of Education. All other officers, assistants, deputies, clerks and employees shall be appointed as provided in this Charter, or as the Council may provide by ordinance in case no provision for their appointment is herein made, and shall hold their respective offices or positions at the pleasure of the appointing power. Where the appointment of any of said officers, assistants, deputies, clerks or employees, is vested in the Council, such appointment and any removal must be made by a three-fifths vote of the members of the appointing power.

Article V, Section 1 is amended to read as follows:

Section 1. General municipal elections, after the effective date of this Charter, for the election of officers and for such other purposes as the Council may prescribe shall be held on the date prescribed by the Education Code. All other municipal elections that may be held by authority of this Charter, or of the general law, shall be known as special municipal elections.

Article V, Section 2 is repealed.

Article V, Section 3 is repealed.

Article V, Section 4 is repealed.

Article V, Section 5 renumbered Section 2.

Article V, Section 6 renumbered Section 3 and amended to read as follows:

Section 3. Terms of Elective Officers: Elective officers shall hold office for a period of four years from and after eight o'clock p.m. of the first Monday following the dat of election, and until their successors are elected and qualified; provided further that any person elected to fill a vacancy shall serve for the remainder of the unexpired term. In the election of councilmen and members of the Board of Education, where full terms and one or more unexpired terms are to be filled, no distinction shall be made in nomination or voting between the full terms and the unexpired terms, but the person or persons elected by the highest number of votes shall be elected for the full term or terms, and the persons receiving the next highest vote shall be elected for the unexpired term or terms, as the

case may be.

Article VI, Section 1 is amended to read as follows:

Section 1. The legislative power of the City of Visalia shall be vested in the people through the initiative and referendum, and in a body to be designated The Council. Each candidate for member of the Council shall have been an elector of the City for at least 30 days prior to the final date for filing nomination papers for the election at which he is a candidate.

Article VI, Section 5, Item (4) is amended to read as follows:

(4) Choose one of its members as presiding officer, to be called Mayor. The Mayor shall preside over the sessions of the Council, shall sign official documents when the signature of the Council or Mayor is required by law, and he shall act as the official head of the City on public and ceremonial occasions. He shall have power to administer oaths and affirmations. When the Mayor is absent from any meeting of the Council, the members of the Council may choose another member to act as Vice Mayor, and he shall for the time being, have the powers of the Mayor.

Article VI, Section 8 is amended to read as follows:

Section 8. Amending Ordinances: No ordinance shall be amended by reference to its title, but the sections thereof to be amended, shall be re-enacted at length as amended; and any amendment passed contrary to the provisions of this section shall be void, except the City Council may adopt and amend any standard code of technical regulations by reference thereto without the necessity of publishing said ordinances in their entirety; providing, however, that three (3) copies of the specific codes to be adopted by reference are available for inspection in the City Clerk's office between the introduction and passage of said ordinance.

Article IX, Section 11 is amended to read as follows:

Section 11. Tax Rate: The total property tax for any one year shall not exceed one percent of the assessed valuation, unless a special tax be authorized, as provided in this Charter; and the proceeds of any such special tax shall be used for no other purpose than that specified for which it was voted; provided, however, that in addition to said one percent there shall be included in every annual levy, a sufficient amount to cover all liabilities of the City for principal and interest of all bonds or judgments due and unpaid or to become due during the ensuing fiscal year and not otherwise provided for.

Special Levies: Special levies in addition to the above may be made annually in amounts not to exceed the limits hereinafter enumerated in this section, respectively, on each $100 of the assessed value of the taxable property in the City·

(1) For the support and maintenance of free public libraries and

reading rooms, Thirty Cents (30¢).

(2) For the support and maintenance of parks, playgrounds and recreation centers, Thirty Cents (30¢).

The City shall spend each fiscal period not less than the total amount raised each year from special levies for the free public libraries and reading rooms, and the parks, playgrounds and recreation centers.

Article X, Section 1 is amended to read as follows:

Section 1. Board of Education: The control of the Public School Department of the City of Visalia, including the whole of the Visalia Unified School District, shall be vested in a Board of Education, which shall consist of members elected from the district at large.

Article XII, Section 1 is amended to read as follows:

Section 1. The Council may, by ordinance, provide for the appointment of a commission of five members to serve without compensation, and to act in an advisory capacity to the Council and City Manager in all matters pertaining to parks, playgrounds and recreation centers. This commission shall be known as the City Parks and Recreation Commission.

Article XVI, Section 21 is repealed.

We further certify that we have compared the text of the foregoing amendment with the original proposal submitting the same to the electors of said City and find that the foregoing is a true, correct, complete and exact copy thereof. That as to said amendment, this certificate shall be taken as a full and complete certification of the regularity of all proceedings had and done in connection theretofore.

In witness whereof, we have hereto set our hands and have caused the corporate seal of the City of Visalia to be affixed hereto this 31st day of March, 1975

S. THOMAS PORTER
(SEAL) Mayor, City Council, City of Visalia
DONNA HALL
City Clerk of the City of Visalia

WHEREAS, The proposed amendment to the 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of the proposed amendment; 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 Visalia, as proposed to, and adopted and ratified by, the electors of the city as hereinabove fully set forth, 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 Visalia.

RESOLUTION CHAPTER 33

Assembly Joint Resolution No. 3—Relative to timber resources.

[Filed with Secretary of State April 21, 1975]

WHEREAS, Although timber resource areas of the United States have historically been susceptible to wide fluctuations in economic activity and employment, present unemployment and decline in economic activity in the forest products industry far exceeds the rate of unemployment in urban areas and regions with more than one industrial base; and

WHEREAS, Workers in the timber resource areas of the nation have little or no other opportunities for employment and many are moving to the cities where their skills are generally not in demand; and

WHEREAS, The movement of timber industry workers to the city exacerbates the already difficult problem of finding work for the unemployed and will also make recovery of the timber industry that much more difficult when the recession is over and the demand for forest products returns; and

WHEREAS, A report to Congress by the Comptroller General of the United States entitled "More Intensive Reforestation and Timber Stand Improvement Programs Could Help Meet Timber Demands," published in February 1974, states that, since 1968, budget requests by the President and congressional appropriations have been less than United States Forest Service estimates of funds necessary to do the work, and much reforestation and timber stand improvement work needs to be done on national forests; and

WHEREAS, Timber sold from the national forests over the years has returned substantial funds to the Treasury and investment in public timberlands has provided the taxpayers with forest products needed for housing; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President of the United States to support, and the Congress of the United States to enact, laws appropriating funds for, and making such changes in statutes as are necessary or desirable to provide, an expanded program for reforestation and timber stand improvement work on the national forest lands as a priority effort to halt recession-related unemployment in the depressed timber

resource regions of the country, and as an investment in the public timberlands to protect and enhance the productivity of this valuable national asset; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 34

Senate Concurrent Resolution No. 35—Relative to bills.

[Filed with Secretary of State April 25, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the following is adopted as a temporary joint rule for the 1975–76 Regular Session of the Legislature:

Deadlines

55.5. Any bill may be heard or acted upon by committee or either house, without regard to Joint Rule 55 or Joint Rule 22.1, if all of the following conditions are met:

(a) The bill was introduced 15 days or more before the hearing or action.

(b) The bill has been in print for 10 days or more.

(c) The bill, if enacted, will not take effect immediately.

(d) The Legislative Counsel's Digest of the bill indicates that the bill should be referred to the fiscal committee.

This rule shall cease to be operative on May 16, 1975.

RESOLUTION CHAPTER 35

Senate Concurrent Resolution No. 33—Approving the amendments to the Charter of the City of Albany, State of California, ratified by the qualified electors of the city at a special municipal election, consolidated with the statewide general election held therein on the fifth day of November, 1974.

[Filed with Secretary of State April 25, 1975]

WHEREAS, Proceedings have been taken and had for the proposal, adoption, and ratification of the amendments to the Charter of the City of Albany, a municipal corporation in the State of California, as hereinafter set forth in the certificate of the mayor

and city clerk of the city, as follows:

RESOLUTION NO. 74-97

A Resolution of the Council of the City of Albany Providing That a Certain Proposal to Amend the Charter of the City of Albany Be Submitted to a Vote of the Qualified Electors of the Said City.

The Council of the City of Albany does resolve as follows:

That the Council deems it necessary and desirable to propose an amendment to the Charter of the City of Albany; that the Council hereby proposes, on its own motion, that the following proposal be submitted to the electors of the City of Albany for their approval or rejection at the statewide general election to be held on the fifth day of November, 1974; said proposed amendment is as follows:

Proposed Charter Amendment No. 1

That the Charter of the City of Albany be amended by adding thereto Section 4A, Limitation on Terms, and Section 4B, Place on Ballot, as follows:

4A. Limitation on Terms Any person who shall have been elected to two successive terms as a member of the Council shall be ineligible to serve again in that office until an intervening period of two years has elapsed. Election to an unexpired term pursuant to Section 29 of this Charter shall constitute election to a term as a member of the Council. This Section shall not operate to create a vacancy or vacancies on the Council as constituted on the effective date of this Section.

4B. Place on Ballot. The order of names of candidates for Council shall be determined by lot, conducted by the City Clerk, and the names placed on the ballot as determined by the said lot drawing.

Be it further resolved that the foregoing proposed Charter amendment be published in the "Albany Times", a newspaper of general circulation within the City of Albany, which newspaper is hereby designated for that purpose, and such publication shall be completed not more than sixty (60) days nor less than forty (40) days before the date of the election herein provided for.

RICHARD O. CLARK
Mayor of the City of
Albany

A true copy
PATRICIA A. GEORGE
City Clerk of the City of
Albany, California

RESOLUTION NO. 74-97

Passed and approved by the Council of the City of Albany this 19th day of Aug, 1974, by the following votes:

Ayes: Councilmen Gleason, Griffin, Mayor Clark

Noes: Councilmen Call, Hein

Absent: None

Witness my hand and the seal of the City of Albany this 19th day of August, 1974.

PATRICIA A. GEORGE
City Clerk of the City of
Albany

WHEREAS, The proposed amendments to the 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of the proposed amendment; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly 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 Albany, as proposed to, and adopted and ratified by, the electors of the city as hereinabove fully set forth, is hereby approved as a whole, without alteration or amendment, for and as amendments to, and as part of, the Charter of the City of Albany.

RESOLUTION CHAPTER 36

Assembly Concurrent Resolution No. 64—Approving amendments to the Charter of the City of Modesto, State of California, ratified by the qualified electors of the city at a special municipal election, consolidated with the statewide general election held therein on the fifth day of November, 1974.

[Filed with Secretary of State May 1, 1975]

WHEREAS, Proceedings have been taken and had for the proposal, adoption, and ratification of amendments to the Charter of the City of Modesto, a municipal corporation in the 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 MODESTO OF CERTAIN CHARTER AMENDMENTS

State of California
County of Stanislaus } ss.
City of Modesto

We, the undersigned, Lee H. Davies, Mayor of the City of Modesto, State of California, and W. T. Chynoweth, City Clerk of the City of Modesto, State of California, do hereby certify and declare as follows:

That the City of Modesto, a municipal corporation of the County of Stanislaus, State of California, now is, and was at all times herein mentioned, a City having a population of more than 50,000 inhabitants and has been, ever since the year 1963, organized, existing, and acting under a freeholder's Charter, adopted under and by virtue of the Constitution of the State of California, which Charter was duly ratified by the majority of the qualified electors of said City at a Special Municipal Election held for that purpose on the 6th day of November, 1962, and approved by the Assembly of the State of California on January 8, 1963 and the Senate of the State of California on January 10, 1963. (Assembly Concurrent Resolution No. 4)

That the said Charter was amended by a majority vote of the qualified electors of said City at a Special Municipal Election held for that purpose on the 20th day of April, 1971, and that the amendment to said Charter was approved by the Assembly of the State of California on June 8, 1971, and the Senate of the State of California on June 22, 1971. (Assembly Concurrent Resolution No. 134)

That in accordance with the provisions now contained in Section 3 of Article XI of the Constitution of the State of California, the City Council of the City of Modesto, being the legislative body thereof, on its own motion duly and regularly submitted to the qualified electors of the City of Modesto one measure for the amendment of the Charter of the City of Modesto at the special municipal election consolidated with the general election held within the City on November 5, 1974. The said measure was designated as "Measure A, Shall the Charter of the City of Modesto be amended to change the date of General Municipal Elections and to delete the references to Library in the name and powers and duties of the Library and Culture Commission?"

In accordance with the provisions of Section 3 of Article XI, of the Constitution of the State of California, the Charter of the City of Modesto and the laws of the State of California, the said proposed amendment was published and advertised in full, on September 20, 1974, in the Modesto Bee, a daily newspaper of general circulation, printed and published in the City of Modesto, the official newspaper of said City of Modesto. The foregoing is shown by the affidavit of publication on file in the office of the City Clerk.

The copies of said proposed amendment 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 Modesto within the time and manner required by law.

And until the date of the Special Municipal Election consolidated with the State of California General Election, November 5, 1974, as hereinafter set forth, there was published in said Modesto Bee an advertisement stating that copies of said proposed charter amendment could be had, upon application therefor, at the office of the City Clerk of said City of Modesto.

That copies of said pamphlet containing said proposed amendment could be had upon application therefor at the office of the City Clerk of said City at all times, to and including November 5, 1974, the date of said election, all as required by said Section 3 of Article XI of the Constitution of the State of California.

That in accordance with the provisions of the Charter of the City of Modesto, and in the manner provided by law, the said election was duly and regularly held in said City on November 5, 1974, after due notice was given and published on September 20, 1974, which said last aforementioned 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 amendment in the Modesto Bee, the official newspaper of said City of Modesto. That at said election, a majority of the qualified electors voting upon the proposed charter amendment voted in favor of Measure A.

That thereafter the City Clerk of the City of Modesto, did in the manner provided by law, duly and regularly cause the canvass of the returns of said election and report the results thereof to the City Council. That the City Council did adopt a resolution approving the results of the canvass of the returns of said election, and did also by said resolution, find, determine and declare that certain proposed amendment, designated as Measure A, to the Charter of the City of Modesto, as hereinafter set forth, was ratified by a majority vote of the electors of said City voting thereon.

That as to said amendments to the Charter of Modesto, 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 said amendments to the Charter of the City of Modesto so ratified by the qualified electors of said City are as follows:

ARTICLE III. ELECTIONS

Section 300. General Municipal Elections. General Municipal Elections for the election of officers and for such other purposes as the Council may prescribe shall be held biennially on the first Tuesday after the first Monday in March of each odd numbered year commencing with the year 1975.

ARTICLE XI. APPOINTIVE BOARDS AND COMMISSIONS

Section 1110. Culture Commission. There shall be a Culture Commission consisting of seven (7) members, five (5) of whom shall be registered electors of the City, and two (2) of whom shall live outside the City but shall be registered electors of the Modesto High School District of Stanislaus County. The Commission shall have the power and duty to:

(a) Act in an advisory capacity to the Council and the City Manager in all matters pertaining to art, literature, music and other cultural activities;

(b) Formulate and recommend annually to the Council a program relating to art, literature, music and other cultural activities;

(c) Promote the preservation of historic sites, landmarks, documents, paintings and other objects associated with the history of the City and its area, and develop educational interest in all such historical matters;

(d) Act in an advisory capacity to the Council, City Manager and Director of any Museum or Cultural Center that may be established by the Council.

We further certify that we have compared the foregoing ratified amendment to the Charter of the City of Modesto with the original proposal submitted to the electors of said City, and find that the foregoing is a full, true, and correct and exact copy of such amendment.

In witness whereof, we have hereunto set our hands and caused the Seal of said City of Modesto to be affixed hereto on March 27, 1975.

(SEAL)

LEE H. DAVIES
Lee H. Davies, Mayor
City of Modesto
W. T. CHYNOWETH
W. T. Chynoweth, City Clerk

WHEREAS, The proposed amendments to the charter, as adopted and ratified as hereinabove set forth, have been and now are 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of the proposed amendment; 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 Modesto, as proposed to, and adopted and ratified by, the electors of the city as hereinabove fully set forth,

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 Modesto.

RESOLUTION CHAPTER 37

Assembly Concurrent Resolution No. 36—Relative to State Highway Route 120.

[Filed with Secretary of State May 12, 1975]

WHEREAS, The Department of Transportation (CALTRANS) has expended over $400,000 for the planning and design of, and over $2,000,000 in acquiring rights-of-way for the construction of, that 6½-mile segment of State Highway Route 120 as a freeway between Interstate 5 and Route 99, commonly known as the Route 120 Manteca Bypass, to improve traffic flow south of the City of Manteca; and

WHEREAS, During the three-year period of 1970 to 1972, there have been 493 accidents and 17 fatalities on the existing segment of Route 120; and

WHEREAS, For that same three-year period, the accident rate per million vehicle miles on that segment was 6.31 as compared to a statewide accident rate of 2.90 on a two-lane highway that is part rural and part urban; and

WHEREAS, A departmental study states that "a bypass will produce considerable savings and time and cost of fuel for the regional traffic, and will eliminate three railroad grade crossings"; and

WHEREAS, The adopted route for the Route 120 Manteca Bypass conforms to the general plans of the City of Manteca and the County of San Joaquin, and has the approval of every state and local agency which may have a direct interest in the project; and

WHEREAS, Because of the adopted alignment for the Route 120 Manteca Bypass, a federal grant for economic development has been approved for the City of Manteca, and the city has expended considerable funds in the planning and development of an industrial park adjacent to the proposed bypass; and

WHEREAS, As late as January 16, 1975, the department intended to carry the Route 120 Manteca Bypass as a contingency project in its 1975–76 budget—that is a project which would be budgeted upon approval of the required environmental impact report—with the bypass to be completely constructed as a two-lane expressway during the 1976–77 fiscal year; and

WHEREAS, On January 23, 1975, the department announced "that it will be necessary to postpone the Route 120 Manteca Bypass project indefinitely because there would not be sufficient funds

available to complete it"; and

WHEREAS, The indefinite postponement of the construction of the Route 120 Manteca Bypass at this time will cause additional economic problems within the County of San Joaquin; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation is hereby requested to budget, from its contingency funds, for the initial construction of State Highway Route 120 between Interstate 5 and Route 99 south of the City of Manteca (the Route 120 Manteca Bypass) during the 1975–76 fiscal year, and to complete its construction as a two-lane expressway during the 1976–77 fiscal year; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 38

Senate Joint Resolution No. 13—Relative to veterans' cemeteries.

[Filed with Secretary of State May 13, 1975.]

WHEREAS, Since the early days of our nation it has been the continuing policy of the United States to provide for the burial of its deceased war veterans in national cemeteries; and

WHEREAS, The national cemeteries of the Presidio of San Francisco, Fort Rosecrans at San Diego, and the Golden Gate National Cemetery at San Bruno are completely filled and closed; and

WHEREAS, The 93rd Congress did enact the "National Cemetery Act of 1973," establishing within the Veterans Administration a national cemetery system for the interment of deceased servicemen and veterans; and

WHEREAS, The Veterans Administration has selected 640 acres in the White Wolf Valley of Kern County as one of the final sites being considered for the establishment and perpetuation of a national cemetery; and

WHEREAS, The Kern County area is within the geographical center and embraces the population center of the state, is serviced by two major transcontinental railroads and two major national highways, and has a modern airport system, including an ultramodern terminal and 16 satellite airfields throughout the county; and

WHEREAS, This area enjoys an equable climate throughout the year, which proves of great benefit to those families wishing to visit the resting places of loved ones at any season; and

WHEREAS, Two of our nation's largest military installations

(Naval Weapons Center and Edwards Air Force Base) are located within Kern County, and several other military installations are nearby; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to establish a national cemetery in Kern County in conformity with the program of continuance and expansion of national cemeteries; and be it further

Resolved, That the Secretary of the Senate be hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Veterans Administration, to the National Cemetery Commission, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 39

Assembly Concurrent Resolution No. 80—Approving amendments to the Charter of the City of Torrance, State of California, ratified by the qualified electors of the city at a special municipal election consolidated with the statewide general election held therein on the fifth day of November, 1974.

[Filed with Secretary of State May 14, 1975]

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

CERTIFICATE OF RATIFICATION OF CHARTER AMENDMENTS BY THE ELECTORS OF THE CITY OF TORRANCE

State of California
County of Los Angeles } ss
City of Torrance

We, the undersigned, Ken Miller, Mayor of the City of Torrance, California, and Vernon W. Coil, City Clerk of said City, do hereby certify and declare as follows:

That the City of Torrance, a municipal corporation in the County of Los Angeles, State of California, is now and at all times herein mentioned was a City duly organized, existing and acting under a freeholders charter adopted under and pursuant to Section 8 of Article XI of the Constitution of the State of California.

That in accordance with the provisions of the Government Code of the State of California, the City Council of said City, being the legislative body thereof, on its own motion, submitted to the qualified electors of said City certain proposals for the amendment of the Charter of said City at a Special Municipal Election, consolidated with the Statewide General Election held in said City on the 5th day of November, 1974, said charter amendments being herein designated as Charter Amendments Nos. 1, 2 and 4, further identified as Proposition VV, WW and YY respectively, on the ballot for the Statewide General Election.

That on September 16, 1974, said City Council caused said proposed Charter amendments to be duly and regularly published and advertised in each and every edition of said sixteenth day of September, 1974, of the South Bay Daily Breeze, the official newspaper of said City and a daily newspaper of general circulation printed, published and circulated in said City.

That said City Council caused copies of said proposed charter amendments to be printed in convenient pamphlet form and in type of not less than 10-point and caused copies thereof to be mailed to each of the qualified electors of said City.

That said City Council, until the day fixed for the election upon said proposed charter amendments, did advertise continuously in said South Bay Daily Breeze, a daily newspaper of general circulation printed, published and circulated in said City, a notice that copies of said proposed charter amendments could be had upon application therefor at the office of the City Clerk of said City up to and including the day fixed for said special municipal election.

That said special municipal election was duly and regularly held in said City on the date fixed by said City Council, to wit, November 5, 1974, which date was not less than forty (40) nor more than sixty (60) days after completion of the advertising of said proposed charter amendments; that at said election a majority of the qualified voters voting thereon voted in favor of and did ratify Charter Amendments 1, 2 and 4, hereinafter specifically set forth.

That all proceedings in connection with the submission of said charter amendments to the electorate, and the election thereon, were taken in accordance with the provisions of Sections 34450 through 34463 of the Government Code of the State of California.

That said amendments to the Charter of said City so ratified by the voters of said City are as follows, to wit:

Proposition VV

Charter Amendment No. 1

Shall Sections 603 and 800 of the Charter of the City of Torrance be amended to read in their entirety as follows·

Section 603. Vacancies.

a) Any vacancies occuring in any of the elective offices provided for in this Charter, other than of members of the Board of Education, shall be filled by appointment by the City Council. Vacancies in the Board of Education shall be filled by appointment by the Board of Education.

b) In the event of the City Council or the Board of Education, respectively, failing to fill a vacancy by appointment within thirty (30) days after such vacancy occurs, the City Council or the Board of Education, as the case may be, must immediately, after the expiration of said thirty (30) days, cause an election to be held to fill such vacancy.

c) Any person appointed or elected to fill any vacancy on the City Council shall hold office only until the next regular municipal election at which time a person shall be elected to serve for the remainder of such unexpired term. Any person appointed or elected to fill a vacancy on the Board of Education shall hold office for the remainder of the unexpired term.

d) In the election of members of the City Council or members of the Board of Education, where full terms and one (1) or more unexpired terms are to be filled, no distinction shall be made in nomination or voting between the full terms and the unexpired terms but the person or persons elected by the highest number of votes shall be elected for the full terms or term and the persons receiving the next highest vote shall be elected for the unexpired terms or term, as the case may be.

Section 800. Board of Education.

a) The control of the public schools of this City shall be vested in the Board of Education, which shall consist of five members; the qualifications and removal of which shall be as prescribed in this Charter.

b) Notwithstanding any other provisions of this Charter, the members of the Board of Education shall be elected at elections called, held, and conducted in accordance with the Education Code of the State of California, and shall hold office for a term of four (4) years as prescribed by law for members of governing boards of unified school districts.

Proposition WW

Charter Amendment No. 2

Shall Section 510 of the Charter of the City of Torrance be amended to read in its entirety as follows:

Section 510. General Municipal Election.

General municipal elections shall be held in said City on the first Tuesday after the first Monday in March in each even numbered year.

Proposition YY

Charter Amendment No. 4

Shall Section 1440 of the Charter of the City of Torrance be repealed and Sections 931, 1411 and 1441 of said Charter be amended to read in their entirety as follows·

Section 931. Special Powers and Duties of City Manager.

The City Manager shall be specifically charged with the performance of the following duties and shall have the following powers, in addition to those enumerated above:

a) He shall enforce all municipal ordinances, franchises, leases, contracts, permits and privileges granted by the City.

b) He shall purchase all supplies, property or equipment needed or required by the City in accordance with such regulations as the City Council shall prescribe by ordinance.

c) He shall prepare and submit to the City Council an annual budget estimate at least two (2) months prior to the date when the annual tax rate must be established, and in this connection, the City Manager shall have plenary power to demand of the various executive departments and elective officials of the City a full and complete statement of the estimated expenditures of such departments and elective officials for the ensuing fiscal year, and the reasons for such expenditures. The City Manager may include or exclude such items from said budget estimate as he may deem advisable. Should any such head of such department or elective official fail to submit such a statement within thirty days after demand, the City Manager shall thereupon have the right to take possession of all books and fiscal records of such department or elective official and retain the same thereafter until such time as the City Council shall order them returned to such department head or elective official and the City Council may likewise engage the service of such subordinate employees as may be necessary to maintain such books and records.

The City Council shall hold at least two public hearings upon said annual budget estimate and may increase the total estimated expenditures set forth therein only upon an affirmative vote of four members of the City Council.

d) He shall make such recommendations to the City Council or the County Board of Equalization regarding taxes, assessments and/or the annual assessment roll as he may deem advisable.

e) He shall have general supervision and control over all City property, including public buildings, parks and playgrounds.

f) He shall advise the City Council concerning the financial needs, conditions, and requirements of the City, and may make such recommendations to the City Council in connection therewith as he may deem advisable.

g) He shall attend all meetings of the City Council or of the members thereof when public matters are under consideration or discussion, except when his suspension, removal or reduction of his salary is under consideration by the City Council.

h) He may examine, without notice, the official conduct or the official accounts or records, of any officer or employee of the City.

i) The City Manager shall devote his entire time to the interests of the City and shall not engage in any private business.

j) He shall perform such other duties and powers as may be conferred upon him by the City Council by resolution or ordinance.

k) The City Manager may delegate and/or redelegate any of the foregoing duties to any municipal department or to the head or chief official of any such department.

Section 1411. Council Action on Budget.

a) After reviewing said proposed annual budget as compiled by the City Manager from information secured from department heads, and making such modifications as it may deem advisable, the Council shall adopt the same by resolution. 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, agencies, and programs therein named.

b) After adoption of the budget, the Council may amend the budget by motion adopted by the affirmative vote of at least four (4) members. In its authorization of expenditures, either budgeted or unbudgeted, the City Council shall not incur any indebtedness in excess of the limitations imposed by this Charter.

c) After adoption of the budget, the City Manager may make such changes within the budget totals and allocations of any department during the fiscal year as he deems reasonably necessary in order to meet the City's needs or goals; provided, however, that the City Manager may not increase the number of employee positions allocated in the budget for any department without the Council having amended the budget therefor.

Section 1441. Demands and Audits.

a) All demands against the City shall be presented and paid in accordance with such regulations as the City Council shall prescribe by ordinance.

b) The accounts of the City shall be audited at least once in each fiscal year by a person (or persons) licensed by the State of California as a certified public accountant. Such accountant(s) shall be selected by the City Council and shall not be an employee of the City.

That a copy of the document entitled "Proposed Amendments to

the Charter of the City of Torrance, California, City Attorney's Analysis and Arguments For and Against City Measures, Special Municipal Election, November 5, 1974, has been certified by the City Clerk and is attached hereto as Exhibit "A".

That we have compared the amendment as stated herein with the original proposals submitted to the electors of said City and find and certify that the foregoing is a full, true and correct copy thereof.

In witness whereof, we have hereunto set our hands and caused the seal of the City of Torrance to be affixed hereto this 31st day of March, 1975.

KEN MILLER
(SEAL) Mayor of the City of Torrance, California
VERNON W. COIL
City Clerk of the City of Torrance, California

and

WHEREAS, The proposed amendments to the charter, as adopted and ratified as hereinabove set forth, have been and now are 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 3 of Article XI of the Constitution of the State of California, as it read at the time of the adoption of these proposed amendments; 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 Torrance, as proposed to, and adopted and and ratified by, the electors of the city as hereinabove fully set forth, 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 Torrance.

RESOLUTION CHAPTER 40

Assembly Concurrent Resolution No. 3—Relative to the Joint Rules.

[Filed with Secretary of State May 15, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the following rules be adopted as the Temporary Joint Rules of the Senate and Assembly for the 1975–76 Regular Session.

Standing Committees

1. Each house shall appoint such standing committees as the business of the house may require, the committees, the number of members, and the manner of selection to be determined by the rules of each house.

Joint Meeting of Committees

3. Whenever any bill has been referred by the Senate to one of its committees, and the same or a like bill has been referred by the Assembly to one of its committees, the chairmen or chairwomen of the respective committees, when in their judgment the interests of legislation or the expedition of business will be better served thereby, shall arrange for a joint meeting of their committees for the consideration of such bill.

Effect of Adoption of Joint Rules

3.5. The adoption of the Joint Rules for any extraordinary session shall not be construed as modifying or rescinding the Joint Rules of the Senate and Assembly for any previous session, nor as affecting in any way the status or powers of the committees created by those rules.

Definition of Word Bill

4. Whenever the word "bill" is used in these rules, it shall include constitutional amendments, resolutions ratifying proposed amendments to the United States Constitution, and resolutions calling for constitutional conventions.

Concurrent and Joint Resolutions

5. Concurrent resolutions relate to matters to be treated by both houses of the Legislature.

Joint resolutions are those which relate to matters connected with the federal government.

Resolutions Treated as Bills

6. Concurrent and joint resolutions, other than resolutions ratifying proposed amendments to the United States Constitution and resolutions calling for constitutional conventions, shall be treated in all respects as bills except as follows:

(a) They shall be given only one formal reading in each house.

(b) They shall not be deemed bills within the meaning of subdivision (a) of Section 8 of Article IV of the Constitution.

(c) They shall not be deemed bills for the purposes of Rules 10.8,

53, 55, 56, and 61, and subdivision (b) of Rule 54 and subdivisions (a) and (b) of Rule 62.

(d) They shall not, except for those relating to voting procedures on the floor or in committee, be deemed bills for the purposes of subdivision (c) of Rule 62.

PREPARATION AND INTRODUCTION OF BILLS

Title of Bill

7. The title of every bill introduced shall convey an accurate idea of the contents of the bill and shall be indicative of the scope of the act and the object to be accomplished. In amending a code section, the mere reference to the section by number shall not be deemed sufficient.

Division of Bill Into Sections

8. A bill amending more than one section of an existing law shall contain a separate section for each section amended.

Bills which are not amendatory of existing laws shall be divided into short sections, where this can be done without destroying the sense of any particular section, to the end that future amendments may be made without the necessity of setting forth and repeating sections of unnecessary length.

Digest of Bills Introduced

8.5. No bill shall be introduced unless it is contained in a cover attached by the Legislative Counsel and unless it is accompanied by a digest, prepared and attached to the bill by the Legislative Counsel, showing the changes in the existing law which are proposed by the bill. No bill shall be printed where the body of the bill or the Legislative Counsel's Digest has been altered, unless the alteration has been approved by the Legislative Counsel. If any bill is presented to the Secretary of the Senate or Chief Clerk of the Assembly for introduction which does not comply with the foregoing requirements of this rule, the Secretary or Chief Clerk shall return it to the member who presented it. The digest shall be printed on the bill as introduced, commencing on the first page thereof.

Digest of Bills Amended

8.6. Whenever a bill is amended in either house, the Secretary of the Senate or the Chief Clerk of the Assembly, as the case may be, shall request the Legislative Counsel to prepare an amended digest and cause it to be printed on the first page of the bill as amended. The digest shall be amended to show changes in the existing law which are proposed by the bill as amended with any material

changes in the digest indicated by the use of appropriate type.

Errors in Digest

8.7. If a material error in a printed digest referred to in Joint Rule 8.5 or 8.6 is brought to the attention of the Legislative Counsel, he shall prepare a corrected digest which shall show the changes made in the digest as provided in Joint Rule 10 for amendments to bills. He shall deliver the corrected digest to the Secretary or the Chief Clerk, as the case may be. If the correction warrants it in the opinion of the President pro Tempore of the Senate or the Speaker of the Assembly, a corrected print of the bill as introduced shall be ordered with the corrected digest printed thereon.

Restrictions as to Amendments

9. A substitute or amendment must relate to the same subject as the original bill, constitutional amendment, or resolution under consideration. No amendment shall be in order when all that would be done to the bill is the addition of a coauthor or coauthors, unless the Rules Committee of the house in which such an amendment is to be offered grants prior approval.

Changes in Existing Law to Be Marked by Author

10. In a bill amending or repealing a code section or a general law, any new matter shall be underlined and any matter to be omitted shall be in type bearing a horizontal line through the center and commonly known as "strikeout" type. When printed the new matter shall be printed in italics, and the matter to be omitted shall be printed in "strikeout" type.

In any amendment to a bill which sets out for the first time a section being amended or repealed, any new matter to be added and any matter to be omitted shall be indicated by the author and shall be printed in the same manner as though the section as amended or repealed were a part of the original bill and was being printed for the first time.

When an entire code is repealed as part of a codification or recodification or when an entire title, part, division, chapter, or article of a code is repealed, the sections comprising such code, title, part, division, chapter, or article shall not be set forth in the bill or amendment in strikeout type.

Rereference to Fiscal Committees

10.5. Bills shall be rereferred to the fiscal committee of each house when they would do any of the following:

(1) Appropriate money.

(2) Result in substantial expenditure of state money by: (a)

imposing new responsibilities on the state or (b) new or additional duties on a state agency or (c) liberalization of any state program, function, or responsibility.

(3) Result in a substantial loss of revenue to the state.

(4) Result in substantial reduction of expenditures of state money by reducing, transferring, or eliminating any existing responsibilities of any state agency, program or function.

Concurrent and joint resolutions shall be rereferred to the fiscal committee of each house when they contemplate any action which would involve any of the following:

(1) Any substantial expenditure of state money.

(2) A substantial loss of revenue to the state.

The above requirements do not apply to bills or concurrent resolutions which contemplate the expenditure or allocation of contingent funds.

Heading of Bills

10.7. No bill shall indicate in its heading or elsewhere that it was introduced at the request of a state agency or officer or any other person. No bill shall contain the words "By request" or words of similar import.

Consideration of Bills

10.8. The limitation contained in subdivision (a) of Section 8 of Article IV of the Constitution may be dispensed with as follows:

(a) A written request for such dispensation entitled "Request to Consider and Act on Bill Within 30 Calendar Days" shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, printed in the Journal and transmitted to the Rules Committee of the appropriate house.

(b) The Rules Committee of the Assembly or Senate, as the case may be, shall determine whether there exists an urgent need for dispensing with the 30-calendar-day waiting period following the bill's introduction.

(c) If the Rules Committee recommends that the waiting period be dispensed with, the member may offer a resolution, without further reference thereof to committee, authorizing hearing and action upon the bill before the 30 calendar days have elapsed. The adoption of the resolution shall require an affirmative recorded vote of three-fourths of the elected members of the house in which the resolution is presented.

Printing of Amendments

11. All bills amended by either house shall be immediately reprinted; in case new matter is added by the amendment such new matter shall be printed in italics in the printed bill, and in the case

of matter being omitted, the matter to be omitted shall be printed in strikeout type. When a bill is amended in either house, the first or previous markings shall be omitted.

Printing and Distribution of Bills—Manner of Printing Bills

12. The State Printer shall observe the following directions in printing all bills, constitutional amendments, and concurrent and joint resolutions:

(a) The body of such bills shall be printed in solid unspaced form so that the same type shall be used both before and after enrollment. Concurrent resolutions approving city or county charters or amendments thereto may be set in smaller type.

(b) All titles of bills shall be set in italics, statute form and the length of the lines used in the titles shall not exceed that of the body of bill.

(c) The lines of all printed bills shall be numbered by page and not by sections, and amendments shall be identified by reference to title, page, and line only.

Distribution of Legislative Publications

13. All requests by members for mailing or distribution of copies of the Weekly Histories and the Legislative Index shall be filed with the Secretary of the Senate or the Chief Clerk of the Assembly. Except as otherwise provided by either the Assembly or Senate, each Member of the Senate and Assembly shall be permitted to submit a list of 10 organizations or individuals. The Secretary of the Senate and the Chief Clerk of the Assembly shall order a sufficient number of copies of the Weekly Histories and the Legislative Index to supply this list together with such number of bills and legislative publications as may be necessary for legislative requirements.

No complete list of bills shall be delivered except upon payment therefor of such sum as may be fixed by the Joint Rules Committee for any regular or extraordinary session. No more than one copy of any bill or other legislative publication, nor more than a total of 100 bills or other legislative publications during a session, shall be distributed free to any person, office, or organization. The limitations imposed by this paragraph do not apply to Members of the Legislature, the President of the Senate, the Secretary of the Senate and the Chief Clerk of the Assembly for the proper functioning of their respective houses; the Legislative Counsel Bureau; Attorney General's office; Secretary of State's office; Controller's office; Governor's office; the Clerk of the Supreme Court; the clerk of the court of appeal for each district; the Judicial Council; the California Law Revision Commission; the State Library; the Library of Congress; the libraries of the University of California at Berkeley and at Los Angeles; and accredited members of the press. The State

Printer shall fix the cost of such bills and publications, including postage, and such moneys as may be received by him shall, after deducting the cost of handling and mailing, be remitted on the first day of each month, one-half each to the Secretary of the Senate and the Chief Clerk of the Assembly for credit to legislative printing. Legislative publications heretofore distributed through the Bureau of Documents shall be distributed through the Bill Room. Unless otherwise provided for, the total number of each bill to be printed shall not be more than 2,500.

Summary Digest and Legislative Index

13.1. The Legislative Counsel shall provide for the periodic publication of a cumulative Legislative Index which shall include tables of sections affected by pending legislation. The State Printer shall print the Legislative Index in such quantities, and at such times, as are determined by the Secretary of the Senate and the Chief Clerk of the Assembly. The costs of such printing shall be paid from the legislative printing appropriation.

13.3. The Legislative Counsel shall compile and prepare for publication a summary digest of legislation passed at each regular and extraordinary session, which digest shall be prepared in a form suitable for inclusion in the publication of statutes. The digest shall be printed as a separate legislative publication on the order of the Joint Rules Committee and may be made available to the public in such quantities and at such prices as the Joint Rules Committee may determine.

13.5. The Legislative Counsel shall prepare for publication from time to time a cumulative statutory record. The statutory record shall be printed as a legislative publication on the order of the Secretary of the Senate or the Chief Clerk of the Assembly.

Other Legislative Printing

Printing of the Daily Journal

14. The State Printer shall print in such quantity as directed by the Secretary of the Senate and the Chief Clerk of the Assembly, copies of the journal of each day's proceedings of each house. At the end of the session he shall also print, as directed by the Secretary of the Senate and the Chief Clerk of the Assembly a sufficient number of copies properly paged after being corrected and indexed by the Secretary of the Senate and the Chief Clerk of the Assembly, to bind in book form as the journal of the respective houses of the Legislature.

What Shall Be Printed in the Journal

15. The following shall always be printed in the journal of each house:

(a) Messages from the Governor and messages from the other house, and the titles of all bills, joint and concurrent resolutions and constitutional amendments when introduced in, offered to, or acted upon by the house.

(b) Every vote taken in the house, and a statement of the contents of each petition, memorial, or paper presented to the house.

(c) A true and accurate account of the proceedings of the house, when not acting as a Committee of the Whole.

Printing of the Daily File

16. A daily file of bills ready for consideration shall be printed each day for each house when the Legislature is not in joint recess except days when a house does not meet.

Printing of History

17. Each house shall cause to be printed, once each week, a complete history of all bills; constitutional amendments; and concurrent, joint, and house resolutions originating in, considered, or acted upon by the respective houses and committees thereof. A regular form shall be prescribed by the Secretary of the Senate and the Chief Clerk of the Assembly. Such history shall show the action taken upon each measure up to and including the legislative day preceding its issuance. Except for periods when the houses are in joint recess, for each day intervening there shall be printed a daily history showing the consideration given to or action taken upon any measure since the issuance of the complete history.

Authority for Printing Orders

18. The State Printer shall not print for use of either house nor charge to legislative printing any matter other than provided by law or by the rules, except upon a written order signed by the Secretary of the Senate, on behalf of the Senate, or the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly. Persons authorized to order printing under this rule may, when necessity requires it, order certain matter printed in advance of the regular order, by the issuance of a rush order.

The Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly or other person authorized by the Assembly, on behalf of the Assembly, are hereby authorized and directed to order and distribute for the members stationery and legislative publications for which there is a demand, and, subject to the rules of their respective houses, to approve the bills covering such orders. All

bills for printing must be presented by the State Printer within 30 days after the completion of the printing.

RECORD OF BILLS

Secretary and Chief Clerk to Keep Records

19. The Secretary of the Senate and the Chief Clerk of the Assembly shall keep a complete and accurate record of every action taken by the Senate and Assembly on every bill.

Secretary and Chief Clerk Shall Endorse Bills

20. The Secretary of the Senate and the Chief Clerk of the Assembly shall endorse on every original or engrossed bill a statement of any action taken by the Senate or Assembly concerning such bill.

ACTION IN ONE HOUSE ON BILL TRANSMITTED FROM THE OTHER

After a Bill Has Been Passed by the Senate or Assembly

21. When a bill has been passed by either house it shall be transmitted promptly to the other unless a motion to reconsider or a notice of motion to reconsider has been made or it is held pursuant to some rule or order of the house.

The procedure of referring bills to committees shall be determined by the respective houses.

Messages to Be in Writing Under Proper Signatures

22. Notice of the action of either house to the other shall be in writing and under the signature of the Secretary of the Senate or the Chief Clerk of the Assembly from which such message is to be conveyed. A receipt shall be taken from the officer to whom such message is delivered.

Uncontested Bills

22.1. Each standing committee may report an uncontested bill out of committee with the recommendation that it be placed on the consent calendar. The Secretary of the Senate and the Chief Clerk of the Assembly shall provide to each committee chairman or chairwoman appropriate forms for such report. As used in this rule, "uncontested bill" means a bill, except a revenue measure or a measure as to which the 30-day limitation prescribed by subdivision (a) of Section 8 of Article IV of the Constitution has been dispensed

with, which: (a) receives a do-pass or do-pass-as-amended recommendation from the committee to which it is referred, by unanimous vote of the members present provided a quorum is present; and (b) has no opposition expressed by any person present at the committee meeting with respect to the final version of the bill as approved by the committee; and (c) prior to final action by the committee has been requested, by the author, to be placed on the consent calendar.

Consent Calendar

22.2. Following their second reading and the adoption of any committee amendments thereto, if any, all bills certified by the committee chairman or chairwoman as uncontested bills shall be placed by the Secretary of the Senate or the Chief Clerk of the Assembly on the consent calendar, and shall be known as "consent calendar bills." Any consent calendar bill which is amended from the floor shall cease to be a consent calendar bill and shall be replaced on the third reading file. Upon objection of any member to the placement or retention of any bill on the consent calendar, such bill shall cease to be a consent calendar bill and shall be replaced on the third reading file. No consent calendar bill shall be considered for adoption until the second legislative day following the day of its placement on the consent calendar.

Consideration of Bills on Consent Calendar

22.3. Bills on the consent calendar are not debatable, except that the President of the Senate or the Speaker of the Assembly shall allow a reasonable time for questions from the floor and shall permit the proponents of such bills to answer such questions. Immediately prior to voting on the first bill on the consent calendar, the President of the Senate or the Speaker of the Assembly shall call to the attention of the members the fact that the next rollcall will be the rollcall on the first bill on the consent calendar.

The consent calendar shall be considered as the last order of business on the daily file.

PASSAGE AND ENROLLING OF BILLS

Procedure on Defeat of More Than Majority Bill

23.5. Whenever a bill containing a section or sections requiring for passage an affirmative recorded vote of more than 21 votes in the Senate and more than 41 votes in the Assembly is being considered for passage and the urgency clause, if the bill is an urgency bill, or the bill, in any case, fails to receive the necessary votes to make all sections effective, no further action may be taken on the bill; provided that an amendment to remove all sections requiring the

higher vote for passage from the bill shall be in order prior to consideration of further business. If the amendment is adopted, the bill shall be reprinted to reflect such amendment. When the bill is reprinted, it shall be returned to the same place on the file as when it failed to receive the necessary votes.

Enrollment of Bill After Passage

24. After a bill has passed both houses it shall be printed in enrolled form, omitting symbols indicating amendments, and shall be compared by the Engrossing and Enrolling Clerk and the proper committee of the house where it originated to determine that it is in the form approved by the houses. The enrolled bill shall thereupon be signed by the presiding officers of both houses and the Secretary of the Senate and Chief Clerk of the Assembly and, except as otherwise provided by these rules, presented without delay to the Governor. The committee shall report the time of presentation of the bill to the Governor to the house and the record shall be entered in the journal. After enrollment and signature by the officers of the Legislature, constitutional amendments, and concurrent and joint resolutions shall be filed without delay in the office of the Secretary of State and the time of filing shall be reported to the house and the record entered in the journal.

AMENDMENTS AND CONFERENCES

Amendments to Amended Bills Must Be Attached

25. Whenever a bill or resolution which shall have been passed in one house shall be amended in the other, it shall immediately be reprinted as amended by the house making such amendment or amendments. Two copies of such amendment or amendments shall be attached to the bill or resolution so amended, and endorsed "adopted" and such amendment or amendments, if concurred in by the house in which such bill or resolution originated, shall be endorsed "concurred in," and such endorsement shall be signed by the Secretary or Assistant Secretary of the Senate, or the Chief Clerk or Assistant Clerk of the Assembly, as the case may be; provided, however, that an amendment to the title of a bill adopted after the passage of such bill shall not necessitate reprinting, but such amendment must be concurred in by the house in which such bill originated.

Amendments to Concurrent and Joint Resolutions

25.5. When a concurrent or joint resolution is amended, and the only effect of the amendments is to add coauthors, the joint or concurrent resolution shall not be reprinted unless specifically requested by one of the added coauthors, but a list of the coauthors

shall appear in the journal and history.

To Concur or Refuse to Concur in Amendments

26. In case the Senate amend and pass an Assembly bill, or the Assembly amend and pass a Senate bill, the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) must either "concur" or "refuse to concur" in the amendments. If the Senate concur (if it be a Senate bill), or the Assembly concur (if it be an Assembly bill), the Secretary or Chief Clerk shall notify the house making the amendments and the bill shall be ordered to enrollment.

Reference to Committee

26.5. Pursuant to Joint Rule 26, whenever a bill is returned to its house of origin for a vote on concurrence in an amendment made in the other house, the Legislative Counsel shall promptly prepare and transmit to the Chief Clerk of the Assembly and the Speaker in the case of an Assembly bill, or to the Secretary of the Senate and Chairman of the Senate Rules Committee in the case of a Senate bill, a brief digest summarizing the effect of the amendment made in the other house. The secretary or chief clerk shall cause the digest to be printed in the Daily File immediately following any reference to the bill covered by the digest. A motion to concur or refuse to concur in the amendment shall not be in order until such time as the Legislative Counsel's Digest has appeared in the file.

If the digest discloses that the amendment of the other house has made a substantial substantive change in the bill as first passed by the house of origin the bill shall on motion of the Chairman of the Committee on Rules, if it be a Senate bill, be referred to the Committee on Rules for reference to an appropriate standing committee; and shall, on the motion of the Speaker, if it be an Assembly bill, be referred to an appropriate standing committee.

Upon receipt of such a bill, the committee may vote to recommend concurrence or nonconcurrence in the amendment or the committee may hold the bill. The committee shall be subject to all the requirements for procedure provided under Joint Rule 62 for committees other than for committees of first referral, and such other requirements for normal committee procedure as the Assembly or Senate may separately provide in the standing rules of their respective houses.

Any of the provisions of this rule may be dispensed with regard to a particular bill in its house of origin upon an affirmative vote of a majority of the members of that house.

Concurring in Amendments Adding Urgency Section

27. When a bill which has been passed in one house is amended in the other by the addition of a section providing that the act shall

take effect immediately as an urgency statute and is returned to the house in which it originated for concurrence in the amendment or amendments thereto, the procedure and vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative, the presiding officer shall then direct that the question of whether the house shall concur in the amendment or amendments shall be put to a vote. If two-thirds of all the members elected to the house vote in the affirmative, concurrence in the amendments shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of all the members elected to such house, the effect is a refusal to concur in the amendment or amendments, and the procedure thereupon shall be as provided in Joint Rule No. 28.

When Senate or Assembly Refuse to Concur

28. If the Senate (if it be a Senate bill) or the Assembly (if it be an Assembly bill) refuse to concur in amendments to the bill made by the other house, and when the other house has been notified of such refusal to concur, a conference committee shall be appointed for each house in the manner prescribed by these rules. The Committee on Rules in the case of the Senate and the Speaker in the case of the Assembly shall each appoint a committee of three (3) on conference, and the Secretary or the Chief Clerk shall immediately notify the other house of the action taken.

Committee on Conference

28.1. The Committee on Rules and the Speaker, in appointing a committee on conference, shall each select two members from those voting with the majority on the point about which the difference has arisen, and the other member from the minority, in the event there is a minority vote.

Whether a member has voted with the majority or minority on the point about which the difference has arisen is determined by his vote on the appropriate rollcall, as follows:

(1) In the Assembly—

(a) The rollcall on the question of final passage of a Senate bill amended in the Assembly when the Senate has refused to concur with the Assembly amendments.

(b) The rollcall on the question of concurrence with Senate amendments to an Assembly bill.

(2) In the Senate—

(a) The rollcall on the question of final passage of an Assembly bill amended in the Senate when the Assembly has refused to concur with the Senate amendments.

(b) The rollcall on the question of concurrence with Assembly

amendments to a Senate bill.

Meetings and Reports of Committees on Conference

29. The first Senator named on the conference committee shall act as chairman or chairwoman of the committee from the Senate, and the first Member of the Assembly named on such committee shall act as chairman or chairwoman of the committee from the Assembly. The chairman or chairwoman of the committee on conference for the house of origin of the bill shall arrange the time and place of meeting of the conference committee and shall prepare or direct the preparation of reports. It shall require an affirmative vote of not less than two of the Assembly Members and two of the Senate Members constituting the committee on conference to agree upon a report, and the report shall be submitted to both the Senate and the Assembly. The committee on conference shall report to both the Senate and Assembly. Such report is not subject to amendment, and if either house refuses to adopt such report, the conferees shall be discharged and other conferees appointed; provided, however, that no more than three different conference committees shall be appointed on any one bill. No member who has served on a committee on conference shall be appointed a member of another committee on conference on the same bill. It shall require the same affirmative recorded vote to adopt any conference report as required by the Constitution upon the final passage of the bill affected by such report. It shall require an affirmative recorded vote of two-thirds of the entire elected membership of each house to adopt any conference report affecting any bill which contains an item or items of appropriation which are subject to subdivision (d) of Section 12 of Article IV of the Constitution. The report of a conference committee shall be in writing, and shall have affixed thereto the signatures of each Senator and each Member of the Assembly consenting to the report. Space shall also be provided where a member of a conference committee may indicate his dissent in the committee's findings. Any dissenting member may have attached to a conference committee report a dissenting report which shall not exceed, in length, the majority committee report. A copy of any amendments proposed in the majority report shall be placed on the desk of each member of the house before it is acted upon by the house.

The vote on concurrence or upon the adoption of such conference report shall be deemed the vote upon final passage of such bill.

Conference Committees

29.5. (a) All meetings of any conference committee on the Budget Bill shall be open to the public. All meetings of any conference committee other than that on the Budget Bill shall be open to press representatives accredited by the Joint Rules

Committee.

(b) The first committee on conference of the Budget Bill, if such a committee is appointed, shall submit its report to each house no later than 15 days after the Budget Bill has been passed by both houses. If such report is not submitted by such date, the conference committee shall be deemed to have reached no agreement and shall so inform each house pursuant to Rule 30.7.

(c) A committee on conference of the Budget Bill shall only consider differences between the version of the Budget Bill as passed by each house and shall not approve any item of expenditure nor control which exceeds that contained in one of the two versions before the conference committee.

(d) No conference committee on any bill, other than the Budget Bill, shall approve any substantial financial provision in any bill if such financial provision has not been heard by the fiscal committee of each house, nor shall any such conference committee approve substantial policy changes which have not been heard by the policy committee of each house.

When Conference Committee Report Is in Order

30. The presentation of the report of a committee on conference shall always be in order, except when a question of order or a motion to adjourn is pending, or during rollcall, and, when received, the question of proceeding to the consideration of the report, if raised, shall be immediately passed upon, and shall be determined without debate.

Conference Committee Reports on Urgency Statutes

30.5. When the report of a committee on conference recommends the amendment of a bill by the addition of a section providing that the act shall take effect immediately as an urgency statute, the procedure and the vote thereon shall be as follows:

The presiding officer shall first direct that the urgency section be read and put to a vote. If two-thirds of the members elected to the house vote in the affirmative the presiding officer shall then direct that the question of whether the house shall adopt the report of the committee on conference shall be put to a vote. If two-thirds of all the members elected to the house vote in the affirmative, the adoption of the report and the amendments proposed thereby shall be effective.

If the affirmative vote on either of such questions is less than two-thirds of all the members elected to such house, the effect is a refusal to adopt the report of the committee on conference.

Failure to Agree on Report

30.7. A conference committee may find and determine that it is unable to submit a report to the respective houses, upon the affirmative vote to that effect of not less than two of the Assembly Members and not less than two of the Senate Members constituting the committee. Such finding may be submitted to the Chief Clerk of the Assembly and the Secretary of the Senate in the form of a letter from the chairman of the committee on conference for the house of origin of the bill, containing the signatures of the members of the committee consenting to the finding and determination that the committee is unable to submit a report. The Chief Clerk of the Assembly and the Secretary of the Senate, upon being notified that a conference committee is unable to submit a report, shall so inform each house, whereupon the conferees shall be discharged and other conferees appointed, in accordance with the provisions of Rule 29.

MISCELLANEOUS PROVISIONS

Authority When Rules Do Not Govern

31. All relations between the houses which are not covered by these rules shall be governed by Mason's Manual.

Press Rules

32. (a) Persons desiring privileges of accredited press representatives shall make application to the Joint Rules Committee. Such application shall constitute compliance with any provisions of the Rules of the Assembly or the Senate with respect to registration of news correspondents. Applications shall state in writing the names of the daily newspapers, periodic publications, news associations, or radio or television stations by which they are employed, and what other occupations or employment they may have, if any; and they shall further declare that they are not employed, directly or indirectly, to assist in the prosecution of the legislative business of any person, corporation or association, and will not become so employed while retaining the privilege of accredited press representatives.

(b) The applications required by the above rule shall be authenticated in a manner that shall be satisfactory to the Standing Committee of the Capitol Correspondents Association which shall see that occupation of seats and desks in the Senate and the Assembly Chambers is confined to bona fide correspondents of reputable standing in their business, who represent daily newspapers requiring a daily file of legislative news, qualified periodic publications, or news associations requiring daily telegraphic or radio or television service on legislative news. It shall be the duty of the standing committee at its discretion, to report violation of accredited press

privileges to the Speaker of the Assembly, or to the Senate Committee on Rules, and pending action thereon the offending correspondent may be suspended by the standing committee.

(c) Except as otherwise provided in this subdivision, persons engaged in other occupations whose chief attention is not given to newspaper correspondence or to news associations requiring telegraphic or radio or television service shall not be entitled to the privileges accorded accredited press representatives; and the press list in the Handbook of the California Legislature and the Senate and Assembly Histories shall be a list only of persons authenticated by the standing committee of correspondents. Accreditation may be granted to bona fide correspondents of reputable standing employed by periodic publications of general circulation, providing that the applicants are employed on a full-time basis in the capitol area preparing articles dealing with state government and politics and that their publications are not organs or organizations involved in legislative advocacy.

(d) The press seats and desks in the Senate and Assembly Chambers shall be under the control of the standing committee of correspondents, subject to the approval and supervision of the Speaker of the Assembly and the Senate Committee on Rules. Press cards shall be issued by the President of the Senate and the Speaker of the Assembly only to correspondents properly accredited in accordance with the provisions of this rule.

(e) One or more rooms shall be assigned for the exclusive use of correspondents during the legislative session, which rooms shall be known as the Press Room. The Press Room shall be under the control of the Chief of the Bureau of Buildings and Grounds; provided, that all rules and regulations shall be approved by the Senate Committee on Rules and the Speaker of the Assembly.

(f) No accredited member of the Capitol Correspondents Association shall, for compensation, perform any service for state constitutional officers or members of their staffs, for state agencies, for the Legislature, for candidates for state office, or for a state officeholder, or for any person registered or performing as a legislative advocate.

(g) An accredited member of the association who violates subdivision (a) or (f) of this rule shall be subject to the following penalties:

(1) For the first offense, the Standing Committee of the Capitol Correspondents Association shall send a letter of admonition to the offending member, his employer, and the Joint Rules Committee. The letter shall state the nature of the member's rule violation and shall warn of an additional penalty for a second offense.

(2) For a second offense, the Standing Committee of the Capitol Correspondents Association shall recommend to the Joint Rules Committee that the member's accreditation be suspended or revoked and that he lose all rights and privileges attached thereto. The Standing Committee of the Capitol Correspondents Association

shall also dismiss the member from the association.

Any member of the Standing Committee of the Capitol Correspondents Association may propose that the committee make an inquiry to determine if an association member has violated subdivision (a) or (f) of this rule. Upon a majority vote of the Standing Committee of the Capitol Correspondents Association, an inquiry shall be made.

Upon receipt of a signed, written notice from any association member of his belief that another association member may have violated subdivision (a) or (f) of this rule, the Standing Committee of the Capitol Correspondents Association shall commence an inquiry into the possible violation.

If the Standing Committee of the Capitol Correspondents Association determines by majority vote that an association member has broken an association rule, it shall inform the member of its finding. Within two weeks of notification, the member may request a meeting of the membership. If the member makes such a request, the Standing Committee of the Capitol Correspondents Association shall promptly schedule a meeting at the soonest possible time. After hearing the member and the committee review the circumstances of the alleged violation, the membership may, by majority vote, nullify the finding of the Standing Committee of the Capitol Correspondents Association. If nullification does not occur, the Standing Committee of the Capitol Correspondents Association shall impose immediately the appropriate penalty.

Dispensing With Joint Rules

33. No joint rule shall be dispensed with except by a vote of two-thirds of each house, except as otherwise provided in these rules. If either house shall violate a joint rule a question of order may be raised in the other house and decided in the same manner as in the case of the violation of the rules of such house; and if it shall be decided that the joint rules have been violated, the bill involving such violations shall be returned to the house in which it originated, and such disputed matter be considered in like manner as in conference committee.

Opinions of Legislative Counsel

34. Whenever the Legislative Counsel issues an opinion to any person other than the first-named author analyzing the constitutionality, operation, or effect of a bill or other legislative measure which is then pending before the Legislature or of any amendment made or proposed to be made to such bill or measure, he is authorized and instructed to deliver two copies of the opinion to the first-named author as promptly as feasible after the delivery of the original opinion and also to deliver a copy to any other author of the bill or measure who so requests. A copy of any letter prepared

by the Legislative Counsel for the sole purpose of advising a member of a conflict between two or more bills as to the sections of law being amended, repealed, or added shall be submitted to the chairman of the committee to which each such bill has been referred.

Resolutions Prepared by Legislative Counsel

34.1. Whenever the Legislative Counsel has been requested to draft a resolution commemorating or taking note of any event, or a resolution congratulating or expressing sympathy toward any person, and subsequently receives a similar request from another Member of the Legislature, he shall inform that requester and each subsequent requester that such a resolution is being, or has been, prepared, and he shall inform them of the name of the member for whom the resolution was, or is being, prepared.

Resolutions

34.2. A concurrent resolution, Senate resolution, or House resolution may be introduced to memorialize the death of a present or former state or federal elected official or a member of their immediate families. In all other instances, a resolution other than a concurrent resolution, as specified by the Committee on Rules of each house, or as provided by the Joint Rules Committee in those cases which require that such resolution should emanate from both houses, shall be used for the purpose of commendation, congratulation, sympathy, or regret with respect to any person, group, or organization.

No concurrent resolution requesting the Governor to issue a proclamation shall be introduced without the prior approval of the Committee on Rules of the house in which the resolution is to be introduced.

Identical Drafting Requests

34.5. Whenever it shall come to the attention of the Legislative Counsel that a member has requested the drafting of a bill which will be substantially identical to one already introduced he shall inform such member of that fact.

Expense of Members

35. As provided in Section 8902 of the Government Code, each Member of the Legislature is entitled to reimbursement for living expenses while required to be in Sacramento to attend a session of the Legislature, or while traveling to and from or in attendance at a committee meeting, or while attending to any legislative function or responsibility as authorized or directed by legislative rules or the Rules Committee of the house of which he or she is a member at the

same rate as may be established by the State Board of Control for other elected state officers. Each member shall be reimbursed for travel expenses incurred in traveling to and from a session of the Legislature, or when traveling to and from a meeting of a committee of which he or she is a member, or when traveling pursuant to any other legislative function or responsibility as authorized or directed by legislative rules or the Rules Committee of the house of which he or she is a member at the rate prescribed by Section 8903 of the Government Code.

Expense allowances for Members of the Senate and Assembly shall be approved and certified to the Controller by the Secretary of the Senate, on behalf of the Senate, and the Chief Clerk of the Assembly or other person authorized by the Assembly Committee on Rules, on behalf of the Assembly, weekly or as otherwise directed by either house, and upon such certification the Controller shall draw his or her warrants in payment of the allowances to the respective members.

Investigating Committees

36. In order to expedite the work of the Legislature either house, or both houses jointly, may by resolution or statute provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control.

The resolution providing for the appointment of a committee shall state the purpose of the committee, and the scope of the subject concerning which it is to act and may authorize it to act either during sessions of the Legislature or, when such authorization may lawfully be made, after final adjournment.

In the exercise of the power granted by this rule, each committee may employ such clerical, legal, and technical assistants as may be authorized by: (a) the Joint Rules Committee in the case of a joint committee, (b) the Senate Rules Committee in the case of a Senate committee, or (c) the Assembly Rules Committee in the case of an Assembly committee.

Except as otherwise provided herein for joint committees or by the Rules of the Senate or the Assembly for single house committees, each committee may adopt and amend such rules governing its procedure as may appear necessary and proper to carry out the powers granted and duties imposed under this rule. Such rules may include provisions fixing the quorum of the committee and the number of votes necessary to take action on any matter. With respect to all joint committees, a majority of the membership from each house constitutes a quorum and an affirmative vote of a majority of the membership from each house is necessary for the committee to take action.

Each such committee is authorized and empowered to summon and subpoena witnesses, require the production of papers, books,

accounts, reports, documents, records, and papers of every kind and description, to issue subpoenas and to take all necessary means to compel the attendance of witnesses and to procure testimony, oral and documentary.

Each member of such committees is authorized and empowered to administer oaths, and all of the provisions of Chapter 4 (commencing with Section 9400), Part 1, Division 2, Title 2 of the Government Code, relating to the attendance and examination of witnesses before the Legislature and the committees thereof, shall apply to such committees.

The Sergeant at Arms of the Senate or Assembly, or such other person as may be designated by the chairman or chairwoman of the committee, shall serve any and all subpoenas, orders, and other process that may be issued by the committee, when directed to do so by the chairman, chairwoman, or by a majority of the membership of the committee.

Every department, commission, board, agency, officer, and employee of the state government, including the Legislative Counsel and the Attorney General and their subordinates, and of every political subdivision, county, city, or public district of or in this state, shall give and furnish to these committees and to their subcommittees upon request such information, records and documents as the committees deem necessary or proper for the achievement of the purposes for which each such committee was created.

Each committee or subcommittee of either house in accordance with the rules of that respective house and each joint committee or subcommittee thereof, may meet at any time during the period in which it is authorized to act, either at the State Capitol, or at any other place in the State of California, in public or executive session, and do any and all things necessary or convenient to enable it to exercise the powers and perform the duties herein granted to it or accomplish the objects and purposes of the resolution creating it with the following exceptions:

(a) When the Legislature is not in joint recess:

(1) No committee or subcommittee of either house shall meet outside the State Capitol without the prior approval of the Rules Committee of the Senate with respect to Senate committees and subcommittees and the Speaker of the Assembly with respect to Assembly committees and subcommittees.

(2) No committee or subcommittee of either house, other than a standing committee or subcommittee thereof, shall meet unless notice of such meeting has been printed in the daily file for four days prior thereto. This requirement may be waived by a majority vote of either house with respect to a particular bill.

(3) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall meet outside the State Capitol without the prior approval of the Joint Rules Committee.

(4) No joint committee or subcommittee thereof, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall meet unless notice of such meeting has been printed in the daily file for four days prior thereto.

(b) When the Legislature is in joint recess each joint committee or subcommittee, other than the Joint Committees on Legislative Audit, Legislative Budget, Legislative Ethics, and Rules, shall notify the Joint Rules Committee at least two weeks prior to any such meeting.

(c) The requirements placed upon joint committees by paragraphs (a) and (b) above may be waived where it is deemed necessary by the Joint Rules Committee.

Each such committee may expend such money as may be made available to it for such purpose but no committee shall incur any indebtedness unless money shall have been first made available therefor.

No living expenses shall be allowed in connection with legislative business for a day on which the member receives reimbursement for expenses while required to be in Sacramento to attend a session of the Legislature. The chairman or chairwoman of each committee shall audit and approve the expense claims of the members of the committee including claims for mileage in connection with attendance on committee business, or in connection with specific assignments by the committee chairman or chairwoman, but excluding other types of mileage, and shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman or chairwoman.

Subject to the rules of each house for the respective committees of each house, and subject to the joint rules for any joint committee, the chairman or chairwoman of any such committee may appoint subcommittees and chairmen or chairwomen thereof for the purpose of more expeditiously handling and considering matters referred to it, and such subcommittees and the chairmen or chairwomen thereof shall have all the powers and authority herein conferred upon the committee and its chairman or chairwoman. The chairman or chairwoman of such subcommittee shall audit the expense claims of the members of such subcommittees and other claims and the expenses incurred by it and shall certify the amount thereof to the chairman or chairwoman of the committee who shall, if he approves the same, certify the amount thereof to the Controller, and the Controller shall draw his warrant therefor upon such certification, and the Treasurer shall pay the same. Whenever such committee or any subcommittee thereof is authorized to leave the State of California in the performance of its duties, then such committee or subcommittee shall, while out of the state, have the same authority as if it were acting and functioning within the state, and the members thereof shall be reimbursed for expenses.

Notwithstanding any provision of this rule, if the standing rules of either house require that expense claims of committees for goods or

services or pursuant to contracts or for expenses of employees or members of committees be audited or approved, after approval of the committee chairman or chairwoman, by another agency of either house, the Controller shall draw his warrants only upon the certification of such other agency. All expense claims approved by the chairman or chairwoman of any joint committee, other than the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be approved by the Joint Rules Committee and the Controller shall draw his warrants only upon the certification of the Joint Rules Committee.

Except salary claims of employees clearly subject to federal withholding taxes and the requirement as to loyalty oaths, claims presented for services or pursuant to contract shall refer to the agreement, the terms of which shall be made available to the Controller.

Expenses of Committee Employees

36.1. Unless otherwise provided by respective house or committee rule or resolution, employees of legislative committees shall, when entitled to traveling expenses, be entitled to allowances in lieu of actual expenses for hotel accommodations, breakfast, lunch, and dinner, at the rates fixed by the Board of Control from time to time in limitation of reimbursement of expenses of state employees generally, provided, that if an allowance for hotel accommodations, breakfast, lunch, and dinner is made by a committee at a rate in excess of those fixed by the Board of Control the chairman or chairwoman of the committee shall notify the Controller of that fact in writing.

Appointment of Committees

36.5. The provisions of this rule shall apply whenever a joint committee is created by a statute or resolution which either provides that appointments be made and vacancies be filled in the manner provided for in the Joint Rules, or which makes no provision for the appointment of members or the filling of vacancies.

The Senate members of the committee shall be appointed by the Senate Committee on Rules; the Assembly members of the committee shall be appointed by the Speaker; and vacancies occurring in the membership of the committee shall be filled by the respective appointing powers. The members appointed shall hold over until their successors are regularly selected.

Appointment of Joint Committee Chairmen or Chairwomen

36.7. The chairman or chairwoman of each joint committee heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall be

appointed by the Joint Rules Committee from a member or members recommended by the Senate Committee on Rules and the Speaker of the Assembly.

Joint Committee Funds

36.8. Each joint committee, heretofore or hereafter created, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, shall expend the funds heretofore or hereafter made available to it in compliance with the policies set forth by the Joint Rules Committee with respect to personnel, salaries, purchasing, office space assignment, contractual services, rental or lease agreements, travel, and any and all other matters relating to the management and administration of committee affairs.

Joint Legislative Budget Committee

37. In addition to any other committee provided for by these rules, there shall be a joint committee to be known and called the Joint Legislative Budget Committee, which is hereby declared to be a continuing body.

It shall be the duty of the committee to ascertain facts and make recommendations to the Legislature and to the houses thereof concerning the state budget, the revenues and expenditures of the state, and of the organization and functions of the state, its departments, subdivisions and agencies, with a view of reducing the cost of the state government, and securing greater efficiency and economy.

The committee shall consist of seven Members of the Senate and seven Members of the Assembly. The Senate members of the committee shall consist of seven Members of the Senate appointed by the Committee on Rules. The Assembly members of the committee shall consist of seven Members of the Assembly appointed by the Speaker. The committee shall select its own chairman or chairwoman.

Any vacancies occurring between regular sessions in the Senate membership of the Joint Legislative Budget Committee shall be filled by the Senate Committee on Rules, and the Senators appointed shall hold over until their successors are regularly selected. For the purposes of this provision, a vacancy shall be deemed to exist as to a Senator whose term is expiring whenever he is not reelected at the general election.

Any vacancies occurring between regular sessions in the Assembly membership of the Joint Legislative Budget Committee shall be filled by the Speaker of the Assembly, and the Members of the Assembly appointed shall hold over until their successors are regularly selected. For the purposes of this provision, a vacancy shall be deemed to exist as to a Member of the Assembly whose term is expiring whenever he is not reelected at the general election.

Any vacancy occurring at any time in the Assembly membership of the committee shall be filled by appointment by the Speaker. The committee shall have the authority to make rules to govern its own proceedings and its employees. It may also create subcommittees from its membership, assigning to its subcommittees any study, inquiry, investigation, or hearing which the committee itself has authority to undertake or hold and the subcommittee for the purpose of this assignment shall have and may exercise all the powers conferred upon the committee, limited only by the express terms of any rule or resolution of the committee defining the powers and duties of the subcommittee. Such powers may be withdrawn or terminated at any time by the committee.

The Joint Legislative Budget Committee may render services to any investigating committee of the Legislature pursuant to contract between the Joint Legislative Budget Committee and the committee for which the services are to be performed. The contract may provide for payment to the Joint Legislative Budget Committee of the cost of such services from the funds appropriated to the contracting investigating committee. All legislative investigating committees are authorized to enter into such contracts with the Joint Legislative Budget Committee. Money received by the Joint Legislative Budget Committee pursuant to any such agreement shall be in augmentation of the current appropriation for the support of the Joint Legislative Budget Committee.

The provisions of Joint Rule 36 shall apply to the Joint Legislative Budget Committee, and it shall have all the authority provided in such rule or pursuant to Section 11 of Article IV of the Constitution.

The committee shall have authority to appoint a Legislative Analyst, to fix his compensation and to prescribe his duties, and to appoint such other clerical and technical employees as may appear necessary. The duties of the Legislative Analyst shall be as follows:

(1) To ascertain the facts and make recommendations to the Joint Legislative Budget Committee and under its direction to the committees of the Legislature concerning:

(a) State budget.

(b) Revenues and expenditures of the state.

(c) The organization and functions of the state, its departments, subdivisions, and agencies.

(2) To assist the Senate Finance Committee and the Assembly Ways and Means Committee in consideration of the budget and all bills carrying express or implied appropriations and all legislation affecting state departments and their efficiency; to appear before any other legislative committee, and to assist any other legislative committees upon instruction by the Joint Legislative Budget Committee.

(3) To provide all legislative committees and Members of the Legislature with information obtained under the direction of the Joint Legislative Budget Committee.

(4) To maintain a record of all work performed by the Legislative

Analyst under the direction of the Joint Legislative Budget Committee and to keep and make available all documents, data, and reports submitted to him by any Senate, Assembly or joint committee. The committee may meet either during sessions of the Legislature, any recess thereof, or after final adjournment, and may meet or conduct business at any place within the State of California.

The chairman or chairwoman of the committee or, in the event of such person's inability to act, the vice chairman or vice chairwoman, shall audit and approve the expenses of members of the committee or salaries of the employees, and all other expenses incurred in connection with the performance of its duties by the committee, and the chairman or chairwoman shall certify the amount approved to the Controller, and the Controller shall draw his warrants upon the certification of the chairman or chairwoman, and the Treasurer shall pay the same to the chairman or chairwoman of the committee to be disbursed by the chairman or chairwoman.

On and after the commencement of a succeeding regular session those members of the committee who continue to be Members of the Senate and Assembly, respectively, continue as members of the committee until their successors are appointed, and the committee continues with all its powers, duties, authority, records, papers, personnel, and staff, and all funds theretofore made available for its use.

Upon the conclusion of its work, any Assembly, Senate, or joint committee (other than a standing committee) shall deliver to the Legislative Analyst for use and custody all documents, data, reports and other materials that have come into the possession of such committee and which are not included within the final report of such committee to the Assembly, Senate, or the Legislature, as the case may be. Such documents, data, reports, and other material shall be available to Members of the Legislature, the Senate Office of Research, and the Assembly Office of Research, upon request.

The Legislative Analyst with the consent of the committee shall make available to any Member or committee of the Legislature any other reports, records, documents, or other data under his control, except that reports prepared by the Legislative Analyst in response to a request from a Member or committee of the Legislature shall only be made available with the written permission of the member or committee who made the request.

The Legislative Analyst, upon the receipt of a request from any committee or Member of the Legislature to conduct a study or provide information which falls within the scope of his responsibilities and which concerns the administration of the government of the State of California shall at once advise the Joint Legislative Budget Committee of the nature of the request without disclosing the name of the member or committee making the request.

The Legislative Analyst shall immediately undertake to provide the requesting committee or legislator with the service or

information requested, and shall inform the committee or legislator of the approximate date when this information will be available. Should there be any material delay he shall subsequently communicate this fact to the requester.

Joint Legislative Audit Committee

37.3. The Joint Legislative Audit Committee is created pursuant to the Legislature's rulemaking authority and specific constitutional authority by Chapter 4 (commencing with Section 10500) of Part 2, Division 2, Title 2 of the Government Code. The committee shall consist of four Members of the Senate and four Members of the Assembly who shall be selected in the manner provided for in these rules, of which one shall be the chairman of the fiscal committee for the Senate and one the chairman of the fiscal committee for the Assembly. Notwithstanding anything to the contrary in these rules, two members from each house constitute a quorum and the number of votes necessary to take action on any matter. The Chairman of the Joint Legislative Audit Committee, upon receiving a request by any Member of the Legislature or committee thereof for a copy of a report prepared or being prepared by the Auditor General, shall provide the member or committee with a copy of such report when it is, or has been, submitted by the Auditor General to the Joint Legislative Audit Committee.

Registration of Legislative Representatives

37.5. The Joint Rules Committee shall have the rights, powers and duties prescribed in Section 9909 of the Government Code, specifically including but not limited to the authority to grant certificates of registration as legislative advocates.

The committee shall study and analyze all facts relating to legislative representation and the regulation thereof, and shall report thereon to the Legislature at each regular session and from time to time as the committee deems necessary, including in the reports its recommendations for appropriate legislation.

The committee may direct the Legislative Analyst to perform such duties as may be assigned to him by the committee.

Designating Legislative Sessions

39. All extraordinary sessions shall be designated in numerical order by the session in which convened.

Joint Rules Committee

40. The Joint Rules Committee is hereby created. The committee has a continuing existence and may meet, act, and conduct its business during sessions of the Legislature or any recess thereof.

The committee shall consist of seven members of the Assembly Committee on Rules and five members of the Senate Committee on Rules, the Speaker of the Assembly, and three Members of the Senate to be appointed by the Senate Committee on Rules. Vacancies occurring in the membership shall be filled by the appointing power.

The committee and its members shall have and exercise all of the rights, duties, and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee and its members.

The committee shall ascertain facts and make recommendations to the Legislature and to the houses thereof concerning:

(a) The relationship between the two houses and procedures calculated to expedite the affairs of the Legislature by improving that relationship.

(b) The legislative branch of the state government and any defects or deficiencies in the law governing that branch.

(c) Methods whereby legislation is proposed, considered, and acted upon.

(d) The operation of the Legislature, and the committees thereof, and the means of coordinating the work thereof and avoiding duplication of effort.

(e) Aids to the Legislature.

(f) Information and statistics for the use of the Legislature, and respective houses thereof, and the members.

Any matter of business of either house, the transaction of which would affect the interests of the other house, may be referred to the committee for action if the Legislature is not in recess, and shall be referred to the committee for action if the Legislature is in recess.

The committee has the following additional powers and duties:

(a) To select a chairman or chairwoman and a vice chairman or vice chairwoman from its membership.

(b) To allocate space in the State Capitol Building and all annexes and additions thereto as provided by law.

(c) To approve, as provided by law, the appearance of the Legislative Counsel in litigation.

(d) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies, and reports to the committee as will best assist it to carry out the purposes for which it is created.

(e) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee.

(f) To report its findings and recommendations, including recommendations for the needed revision of any and all laws and constitutional provisions relating to the Legislature, to the

Legislature and to the people from time to time and at any time.

(g) The committee, and any subcommittee when so authorized by the committee, may meet and act without as well as within the State of California, and is authorized to leave the state in the performance of its duties.

(h) To expend such funds as may be made available to it to carry out the functions and activities related to the legislative affairs of the Senate and Assembly.

(i) To appoint a chief administrative officer of the committee, who shall have such duties relating to the administrative, fiscal and business affairs of the committee as the committee shall prescribe. The committee may terminate the services of the chief administrative officer at any time.

(j) To employ such persons as may be necessary to assist all other joint committees, except the Joint Legislative Budget Committee and the Joint Legislative Audit Committee, in the exercise of their powers and performance of their duties. In accordance with Joint Rule 36.8, the committee shall govern and administer the expenditure of funds by such other joint committees, requiring that the claims of such joint committees be approved by the Joint Rules Committee or its designee. All expenses of the committee as well as expenses of all other joint committees may be paid from the Contingent Funds of the Assembly and Senate.

(k) To appoint the chairmen or chairwomen of joint committees, as authorized by Joint Rule 36.7.

(*l*) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

(m) The members of the Joint Rules Committee from the Senate may meet separately as a unit, and the members of the Joint Rules Committee from the Assembly may meet separately as a unit, and consider any action which is required to be taken by the Joint Rules Committee. If the majority of members of the Joint Rules Committee of each house at the separate meetings vote in favor of such action, the action shall be deemed to be action taken by the Joint Rules Committee.

The committee shall succeed to, and is vested with, all of the powers and duties of the Joint Committee on Legislative Organization, State Capitol Committee, the Joint Committee on Interhouse Cooperation, the Joint Legislative Committee for School Visitations, and the Joint Standing Committee on the Joint Rules of the Senate and the Assembly.

Subcommittee on Legislative Space and Facilities

40.3. (a) A subcommittee of the Joint Rules Committee is hereby created to be known as the Subcommittee on Legislative Space and Facilities. The subcommittee shall consist of three Members of the Senate and three Members of the Assembly, appointed by the

Chairman of the Joint Rules Committee, and the chairman of the fiscal committee of each house who shall have full voting rights on the subcommittee. The chairman of the subcommittee shall be appointed by the members thereof. For purposes of this subcommittee, the chairmen of the fiscal committees shall be ex officio members of the Joint Rules Committee, but shall not have voting rights on that committee, nor shall they be counted in determining a quorum. The subcommittee shall consider the housing of the Legislature and legislative facilities.

(b) The subcommittee and its members shall have and exercise all of the rights, duties and powers conferred upon investigating committees and their members by the provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this subcommittee and its members.

(c) The subcommittee has the following additional powers and duties:

(1) To contract with such other agencies, public or private, as it deems necessary for the rendition and affording of such services, facilities, studies and reports to the subcommittee as will best assist it to carry out the purposes for which it is created.

(2) To cooperate with and secure the cooperation of county, city, city and county, and other local law enforcement agencies in investigating any matter within the scope of this resolution and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the subcommittee.

(3) To report its findings and recommendations to the Legislature and to the people from time to time and at any time.

(4) To do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this resolution.

(d) The subcommittee is authorized to leave the State of California in the performance of their duties.

Subcommittee on Legislative Assistance

40.5. A subcommittee of the Joint Rules Committee is hereby created to be known as the Subcommittee on Legislative Assistance. The Chairman or Chairwoman of the Joint Rules Committee shall appoint one member of the Joint Rules Committee from each house to be members of the subcommittee.

The subcommittee shall have the duty and responsibility of offering such assistance as may be desired by Members of the Legislature, former members, and their families and rendering such aid and assistance as is possible through the offices of the Sergeants at Arms and other officers and employees of the Legislature in the event of the death of a member, former member, or a member of their families.

The Sergeants at Arms and other officers and employees of each

house of the Legislature shall render such aid or assistance as may be requested or directed by the subcommittee.

The Joint Rules Committee shall allocate to the subcommittee, from any funds available therefor, such funds as may be required to carry out its functions.

Claims for Workmen's Compensation

41. The Chairman or Chairwoman of the Rules Committee of each house, or a designated representative, shall sign any required workmen's compensation report regarding injuries or death arising out of and within the course of employment suffered by any member, officer, or employee of the house, or any employee of a standing or investigating committee thereof. In the case of a joint committee, the Chairman or Chairwoman of the Rules Committee of either house, or a designated representative, may sign any such report in respect to a member or employee of such joint committee.

Information Concerning Committees

42. The Rules Committee of each house shall provide for a continuous cumulation of information concerning the membership, organization, meetings, and studies of legislative investigating committees. Each Rules Committee shall be responsible for information concerning the investigating committees of its own house and concerning joint investigating committees under the chairmanship of a member of that house. To the extent possible, each Rules Committee shall seek to insure that the investigating committees for which it has responsibility under this rule have organized, including the organization of any subcommittees, and have had all topics for study assigned to them within a reasonable period of time.

The information thus cumulated shall be made available to the public by the Rules Committee of each house and shall be published periodically under their joint direction.

Joint Committees

43. Concurrent resolutions creating joint committees of the Legislature and concurrent resolutions allocating moneys from the Contingent Funds of the Assembly and Senate to such committees shall be referred to the Committees on Rules of the respective houses.

Conflict of Interest

44. (a) No Member of the Legislature shall, while serving as such, have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity, or incur any

obligation of any nature, which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed in the laws of this state.

(b) No Member of the Legislature shall, during the term for which he or she was elected:

(1) Accept other employment which he or she has reason to believe will either impair his or her independence of judgment as to his or her official duties or require him or her, or induce him or her, to disclose confidential information acquired by him or her in the course of and by reason of his or her official duties;

(2) Willfully and knowingly disclose, for pecuniary gain, to any other person, confidential information acquired by him or her in the course of and by reason of his or her official duties or use any such information for the purpose of pecuniary gain;

(3) Accept or agree to accept, or be in partnership with any person who accepts or agrees to accept, any employment, fee, or other thing of value, or portion thereof, in consideration of his appearing, agreeing to appear, or taking any other action on behalf of another person regarding a licensing or regulatory matter, before any state board or agency which is established by law for the primary purpose of licensing or regulating the professional activity of persons licensed, pursuant to state law; provided, that this rule shall not be construed to prohibit a member who is an attorney at law from practicing in such capacity before the Workmen's Compensation Appeals Board or the Commissioner of Corporations, and receiving compensation therefor, or from practicing for compensation before any state board or agency in connection with, or in any matter related to, any case, action, or proceeding filed and pending in any state or federal court; and provided that this rule shall not act to prohibit a member from making inquiry for information on behalf of a constituent before a state board or agency, if no fee or reward is given or promised in consequence thereof, and provided that the prohibition contained in this rule shall not apply to a partnership in which the Member of the Legislature is a member if the Member of the Legislature does not share directly or indirectly in the fee resulting from the transaction; and provided that the prohibition contained in this rule shall not apply in connection with any matter pending before any state board or agency on the operative date of this rule if the affected Member of the Legislature is attorney of record or representative in the matter prior to such operative date;

(4) Receive or agree to receive, directly or indirectly, any compensation, reward, or gift from any source except the State of California for any service, advice, assistance or other matter related to the legislative process, except fees for speeches or published works on legislative subjects and except, in connection therewith, reimbursement of expenses for actual expenditures for travel and reasonable subsistence for which no payment or reimbursement is made by the State of California;

(5) Participate, by voting or any other action, on the floor of either

house, or in committee or elsewhere, in the enactment or defeat of legislation in which he or she has a personal interest, except as follows:

(i) If, on the vote for final passage by the house of which he or she is a member, of the legislation in which he or she has a personal interest, he or she first files a statement (which shall be entered verbatim on the journal) stating in substance that he or she has a personal interest in the legislation to be voted on and notwithstanding such interest, he or she is able to cast a fair and objective vote on such legislation, he or she may cast his or her vote without violating any provision of this rule;

(ii) If the member believes that, because of his or her personal interest, he or she should abstain from participating in the vote on the legislation, he or she shall so advise the presiding officer prior to the commencement of the vote and shall be excused from voting on the legislation without any entry on the journal of the fact of his or her personal interest. In the event a rule of the house, requiring that each member who is present vote aye or nay is invoked, the presiding officer shall order the member excused from compliance and shall order entered on the journal a simple statement that the member was excused from voting on the legislation pursuant to law.

(c) A person subject to this rule has an interest which is in substantial conflict with the proper discharge of his duties in the public interest and of his responsibilities as prescribed in the laws of this state or a personal interest, arising from any situation, within the scope of this rule, if he or she has reason to believe or expect that he or she will derive a direct monetary gain or suffer a direct monetary loss, as the case may be, by reason of his or her official activity. He or she does not have an interest which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state or a personal interest, arising from any situation, within the scope of this rule, if any benefit or detriment accrues to him or her as a member of a business, profession, occupation, or group to no greater extent than any other member of such business, profession, occupation, or group.

(d) A person subject to the provisions of this rule shall not be deemed to be engaged in any activity which is in substantial conflict with the proper discharge of his or her duties in the public interest and of his or her responsibilities as prescribed by the laws of this state, arising from any situation, or to have a personal interest, arising from any situation, within the scope of this rule, solely by reason of any of the following:

(1) His or her relationship to any potential beneficiary of any situation is one which is defined as a remote interest by Section 1091 of the Government Code or is otherwise not deemed to be a prohibited interest by Section 1091.1 or 1091.5 of the Government Code.

(2) Receipt of a campaign contribution regulated, received,

reported, and accounted for pursuant to Division 8 (commencing with Section 11500) of the Elections Code, so long as the contribution is not made on the understanding or agreement, in violation of law, that the person's vote, opinion, judgment, or action will be influenced thereby.

(e) The enumeration in this rule of specific situations or conditions which are deemed not to result in substantial conflicts with the proper discharge of the duties and responsibilities of a legislator or legislative employee or in a personal interest shall not be construed as exclusive.

The Legislature in adopting this rule recognizes that Members of the Legislature and legislative employees may need to engage in employment, professional, or business activities other than legislative activities, in order to maintain a continuity of professional or business activity, or may need to maintain investments, which activities or investments do not conflict with the specific provisions of the chapter. However, in construing and administering the provisions of the rule, weight should be given to any coincidence of income, employment, investment, or other profit from sources which may be identified with the interests represented by those sources which are seeking action of any character on matters then pending before the Legislature.

(f) No employee of either house of the Legislature shall, during the time he is so employed, commit any act or engage in any activity prohibited by any part of this rule.

(g) No person shall induce or seek to induce any Member of the Legislature to violate any part of this rule.

(h) Violations of these rules are punishable as provided in Section 8926 of the Government Code.

Joint Legislative Ethics Committee

45. (a) The Joint Legislative Ethics Committee is hereby created. The committee shall consist of three Members of the Senate appointed by the Senate Committee on Rules and three Members of the Assembly appointed by the Speaker of the Assembly. Of the three members appointed from each house, at least one from each house shall be a member of the political party having the largest number of members in that house and at least one from each house shall be a member of the political party having the second largest number of members in that house. The committee shall elect its own chairman or chairwoman. Vacancies occurring in the membership of the committee shall be filled in the manner provided for in these rules for other committees. A vacancy shall be deemed to exist as to any member of the committee whose term is expiring whenever such member is not reelected at the general election.

(b) The committee is authorized to make rules governing its own proceedings. The provisions of Rule 36 of the Joint Rules of the Senate and Assembly relating to investigating committees shall apply

to the committee

Prior to the issuance of any subpoena by the committee with respect to any matter before the committee, it shall by a resolution adopted by a vote of two members of the committee from each house of the Legislature define the nature and scope of its investigation in the matter before it.

(c) Funds for the support of the committee shall be provided from the Contingent Funds of the Assembly and the Senate in the same manner that such funds are made available to other joint committees of the Legislature.

(d) The committee shall have power, pursuant to the provisions of this rule, to investigate and make findings and recommendations concerning alleged violations by Members of the Legislature of the provisions of Rule 44.

(e) Any person may: (a) file with the committee a verified complaint in writing which shall state the name of the Member of the Legislature alleged to have committed the violation complained of, and which shall set forth the particulars thereof, or (b) file a complaint concerning the alleged violation by a Member of the Legislature with the district attorney of the appropriate county.

If a person files a complaint with respect to any alleged violation by a Member of the Legislature with the committee, he or she may not thereafter file a complaint to institute a criminal prosecution for such violation until the committee has rendered its report or until a period of 120 days has elapsed since the filing of the complaint. If a complaint is filed with the appropriate district attorney by any person concerning an alleged violation by a Member of the Legislature of any provision of Rule 44, such person may not thereafter file a complaint with respect to such alleged violation with the committee.

If a complaint is filed with the committee, the committee shall promptly send a copy of the complaint to the Member of the Legislature alleged to have committed the violation complained of, who shall thereafter be designated as the respondent.

No complaint may be filed with the committee after the expiration of six months from the date upon which the alleged violation occurred.

(f) If the committee determines that the verified complaint does not allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Rule 44, it shall dismiss the complaint and notify the complainant and respondent thereof. If the committee determines that such verified complaint does allege facts, directly or upon information and belief, sufficient to constitute a violation of any of the provisions of Rule 44, the committee shall promptly investigate the alleged violation and, if after such preliminary investigation, the committee finds that probable cause exists for believing the allegations of the complaint, it shall fix a time for a hearing in the matter, which shall be not more than 30 days after such finding. If, after the preliminary investigation,

the committee finds that probable cause does not exist for believing the allegations of the complaint, the committee shall dismiss the complaint. In either event the committee shall notify the complainant and respondent of its determination.

(g) After the complaint has been filed the respondent shall be entitled to examine and make copies of all evidence in the possession of the committee relating to the complaint.

(h) If a hearing is to be held pursuant to subdivision (f) the committee, before the hearing has commenced, shall issue subpoenas and subpoenas duces tecum at the request of any party in accordance with the provisions of Chapter 4 (commencing with Section 9400), Part 1, Division 2, Title 2 of the Government Code. All of the provisions of Chapter 4, except Section 9410, shall be applicable to the committee and the witnesses before it.

(i) At any hearing held by the committee:

(1) Oral evidence shall be taken only on oath or affirmation.

(2) Each party shall have these rights: to be represented by legal counsel; to call and examine witnesses; to introduce exhibits; and to cross-examine opposing witnesses.

(3) The hearing shall be open to the public.

(j) Any official or other person whose name is mentioned at any investigation or hearing of the committee and who believes that testimony has been given which adversely affects him, shall have the right to testify or, at the discretion of the committee, to file a statement of facts under oath relating solely to the material relevant to the testimony of which he complains.

(k) After the hearing the committee shall state its findings of fact. If the committee finds that the respondent has not violated any of the provisions of Rule 44, it shall order the action dismissed, and shall notify the respondent and complainant thereof and shall also transmit a copy of the complaint and the fact of dismissal to the Attorney General and to the district attorney of the appropriate county. If the committee finds that the respondent has violated any of the provisions of Rule 44, it shall state its findings of fact and submit a report thereon to the house in which the respondent serves, send a copy of such findings and report to the complainant and respondent, and the committee shall also report thereon to the Attorney General and to the district attorney of the appropriate county.

(*l*) Nothing in this rule shall preclude any person from instituting a prosecution for violation of any provision of Rule 44 unless such person has filed a complaint with the committee concerning such violation, in which case such person may not file a complaint with the district attorney of the appropriate county to institute a criminal prosecution for such violation until the committee has made its determination of the matter or a period of 120 days has elapsed since the filing of the complaint with the committee.

(m) The filing of a complaint with the committee pursuant to this rule suspends the running of the statute of limitations applicable to

any violation of the provisions of Rule 44 while such complaint is pending.

(n) The committee shall maintain a record of its investigations, inquiries, and proceedings. All records, complaints, documents, reports filed with or submitted to or made by the committee, and all records and transcripts of any investigations, inquiries or hearings of the committee under this rule shall be deemed confidential and shall not be open to inspection by any person other than a member of the committee, an employee of the committee, or a state employee designated to assist the committee, except as otherwise specifically provided in this rule. The committee may, by adoption of a resolution, authorize the release to the Attorney General or to the district attorney of the appropriate county of any information, records, complaints, documents, reports, and transcripts in its possession material to any matter pending before the Attorney General or the district attorney. All matters presented at a public hearing of the committee and all reports of the committee stating a final finding of fact pursuant to subdivision (k) shall be public records and open to public inspection. Any employee of the committee who divulges any matter which is deemed to be confidential by this subdivision is punishable as provided in Section 8953 of the Government Code.

(o) All actions of the committee shall require the concurrence of two members of the committee from each house.

(p) The committee may render advisory opinions to Members of the Legislature with respect to the provisions of Rule 44 and their application and construction. The committee may secure an opinion from the Legislative Counsel for this purpose or issue its own opinion.

Legislative Hearing Rooms

46. The Rules Committee of each house shall provide designated space for nonsmokers in each legislative hearing room under its jurisdiction; provided, however, that nothing in this rule shall prevent any committee chairman from prohibiting smoking completely, or from further restricting smoking to a greater extent than provided by the Rules Committee of that house.

Designating Legislative Sessions

50. Regular sessions shall be identified with the odd-numbered year subsequent to each general election, followed by a hyphen, and then the last two digits of the following even-numbered year. For example: 1973–74 Regular Session.

Days and Dates

50.5. (a) As used in these rules, "day" means a calendar day, unless otherwise specified.

(b) When the date of a deadline, recess, other requirement, or circumstances, falls on a Saturday, Sunday, or Monday that is a holiday, such date shall be deemed to refer to the preceding Friday. When such a date falls on a holiday on a weekday other than a Monday, such date shall be deemed to refer to the preceding day.

Legislative Calendar

51. (a) The Legislature shall observe the following calendar during the first year of the regular session:

(1) Organizational Recess—The Legislature shall meet on the first Monday in December following the general election to organize. Thereafter, each house shall be in recess from such time as it determines, but not later than the following Friday until the first Monday in January, except when the first Monday is January 1, in which case, the following Tuesday.

(2) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(3) Summer Recess—The Legislature shall be in recess from the last Friday in June until the first Monday in August. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 15 until the first Monday in January, except when the first Monday is January 1, in which case, the following Tuesday.

(b) The Legislature shall observe the following calendar for the remainder of the legislative session:

(1) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(2) Summer Recess—The Legislature shall be in recess from the last Friday in June until the first Monday in August. This recess shall not commence until the Budget Bill is enacted.

(3) Final Recess—The Legislature shall be in recess on September 1 until adjournment sine die on November 30th.

(c) Recesses shall be from the hour of adjournment on the day specified to reconvene at the time designated by the respective houses.

(d) The recesses specified by this rule shall be designated as joint recesses.

Recall From Recess

52. Notwithstanding the power of the Governor to call a special session, the Legislature may be recalled from joint recess and reconvene in regular session by any of the following means:

(1) It may be recalled by joint proclamation, which shall be entered in the journal, of the Senate Rules Committee and the Speaker of the Assembly or, in his absence from the state, the Assembly Rules Committee.

(2) Ten or more Members of the Legislature may present a request for recall from joint recess to the Chief Clerk of the Assembly and the Secretary of the Senate. The request shall immediately be printed in the journal. Within 10 days thereafter the Speaker of the Assembly, or if the Speaker is absent from the state, the Assembly Rules Committee, and the Senate Rules Committee shall act upon the request. If they concur in desiring to recall the Legislature from joint recess, they shall issue their joint proclamation entered in the journal no later than 20 days after publication of the request in the journal.

(3) If either or both of the parties specified in subdivision (2) does not concur, 10 or more Members of the Legislature may request the Chief Clerk or Secretary of the respective house to petition the membership of that house. The petition shall be entered in the journal and shall contain a specified reconvening date commencing not later than 20 days after the date of the petition. If two-thirds of the members of the house or each of the two houses concur, the Legislature shall reconvene on the date specified. The necessary concurrences must be recieved at least 10 days prior to date specified for reconvening.

Procedure on Suspending Rules by Single House

53. Whenever these rules authorize suspension of the Joint Rules as to a particular bill by action of a single house after approval by the Rules Committee of that house, the following procedure shall be followed:

(a) A written notice of intention to suspend the joint rule shall be filed with the Chief Clerk of the Assembly or the Secretary of the Senate, as the case may be, and shall be transmitted to the Rules Committee of the appropriate house. The notice shall be printed in the journal of that house.

(b) The Rules Committee of the Assembly or Senate, as the case may be, shall determine whether there exists an urgent need for the suspension of the joint rule with regard to the bill.

(c) If the Rules Committee recommends that the suspension be permitted, the member may offer a resolution, without further reference thereof to committee, granting permission to suspend the joint rule. The adoption of the resolution granting such permission shall require an affirmative recorded vote of the elected members of the house in which the request is made.

Introduction of Bills

54. (a) Bills may be introduced at any time except as provided in subdivision (d) and when a house is in joint recess. Each house may provide for introduction of bills during a recess other than a joint recess. Bills shall be numbered consecutively during the regular session.

(b) A member may not author a bill during a session that would have substantially the same effect as a bill he or she had previously introduced during that session. This restriction shall not apply in cases where a previously introduced bill has been vetoed by the Governor or has had its provisions "chaptered out" by a later chaptered bill pursuant to Section 9605 of the Government Code. An objection may be raised only while the bill is being considered by the house in which it is introduced. In such case the objection shall be referred to the Rules Committee of the house for a determination. The bill shall remain on file or with a committee, as the case may be, until such determination is made. If upon consideration of the objection the Rules Committee determines that the bill objected to would have substantially the same effect as another bill previously introduced during the session by the author, the bill objected to shall be stricken from the file or returned to the desk by the committee, as the case may be, and shall not be acted upon during the remainder of the session. If the Rules Committee determines that the bill objected to would not have substantially the same effect as a bill previously introduced during the session by the author, the bill may thereafter be acted upon by the committee or the house, as the case may be. The Rules Committee may obtain such assistance as it may desire from the Legislative Counsel as to the similarity of a bill or amendments to a prior bill. This joint rule may be suspended by approval of the Rules Committee and three-fourths vote of the house.

(c) During a joint recess, the Chief Clerk or Secretary shall order the preparation of preprint bills when so ordered by any of the following:

(1) The Speaker.

(2) The Committees on Rules of the respective houses.

(3) A committee with respect to bills within the subject matter jurisdiction of the committee.

Preprint bills shall be designated as such and shall be printed in the order received and numbered in the order printed. To facilitate subsequent amendment, preprint bills shall be so prepared that

when introduced as a bill, the page and the line numbers will not change. The Chief Clerk and Secretary shall publish a list periodically of such preprint bills showing the preprint bill number, the title, and the Legislative Counsel's Digest. The Speaker and Senate Rules Committee may refer preprint bills to committee for study.

30-Day Waiting Period

55. No bill other than the Budget Bill may be heard or acted upon by committee or either house until the bill has been in print for 30 days. The date a bill is returned from the printer shall be entered in the history. This rule may be suspended concurrently with the suspension of the requirement of Section 8 of Article IV of the Constitution or if such period has expired, this rule may be suspended by approval of the Rules Committee and two-thirds vote of the house in which the bill is being considered. If this rule is suspended, such suspension shall also suspend subdivision (d) of Joint Rule 54, if applicable.

Return of Bills

56. Bills introduced in the first year of the regular session and passed by the house of origin on or before the January 30th constitutional deadline are "carryover bills." Immediately after January 30, bills introduced in the first year of the regular session that do not become "carryover bills" shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate, respectively. Notwithstanding Rule 4, as used in this rule, "bills" does not include constitutional amendments.

Appropriation Bills

57. Appropriation bills that may not be sent to the Governor shall be held, after enrollment, by the Chief Clerk of the Assembly or Secretary of the Senate, respectively. The bills shall be sent to the Governor immediately after the Budget Bill has been enacted.

Urgency Clauses

58. An amendment to add a section to a bill to provide that the act shall take effect immediately as an urgency statute shall not be adopted unless the author of the amendment has first secured the approval of the Rules Committee of the house in which the amendments are offered.

Vetoes

58.5. The Legislature may consider a Governor's veto for only 60 days, not counting days when the Legislature is in joint recess.

Publications

59. During periods of joint recess, weekly, if necessary, the following documents shall be published: files, histories, and journals.

Hearings in Sacramento

60. (a) No standing committee or subcommittee thereof may take action on a bill at any hearing held outside of Sacramento.

(b) A committee may hear the subject matter of a bill during a period of recess. Four days' notice in the daily file is required prior to any such hearing.

(c) No bill may be acted upon by a committee during a joint recess.

Deadlines

61. The following deadlines shall be observed by the standing committees of the Assembly and Senate:

(a) Odd-numbered year:

(1) Between the third Friday in May and September 16, the Secretary of the Senate and the Chief Clerk shall not receive from the fiscal committees of their respective houses a report concerning bills introduced in and requiring further actions by that house, unless they were passed by a policy committee prior to the third Friday in May. Such a report may be received from a fiscal committee on or before June 20, however, if after the third Friday in May the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(2) Between the first Friday in June and September 16 the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee requiring further action on a bill that was introduced in their respective houses.

(3) Between June 20 and September 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from the fiscal committees concerning bills introduced in their respective houses.

(4) Between the last Friday in June and September 16, no bill shall be passed by the house in which it was introduced, other than on concurrence in amendments adopted in the other house.

(5) Between the third Monday in August and September 16, the Secretary of the Senate and the Chief Clerk shall not receive from the fiscal committees of their respective houses a report concerning bills requiring further action that were introduced in the other house, unless they were passed by a policy committee prior to the

third Monday in August. Such a report may be received from a fiscal committee on or before September 1, however, if after the third Monday in August the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(6) Between the fourth Monday in August and September 16, no committee other than fiscal committees shall meet for the purpose of hearing any bill.

(7) Between September 1 and September 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from any committee requiring further action by their respective houses.

(b) Even-numbered year:

(1) After January 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning bills introduced in their respective houses during the odd-numbered year which require further consideration by the fiscal committee. Such a report may be received from a policy committee on or before January 23, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(2) After January 23, the Secretary of the Senate and the Chief Clerk shall not receive a report from any committee concerning bills introduced in their respective houses during the odd-numbered year, requiring further action in that house.

(3) After the first Friday in May, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning a bill introduced in their respective houses requiring further consideration by the fiscal committee of that house. Such a report may be received from a policy committee on or before the second Friday in June, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(4) After the fourth Friday in May, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning a bill introduced in their respective houses and requiring further action in that house.

(5) After the second Friday in June, the Secretary of the Senate and the Chief Clerk shall not receive a report from the fiscal committees concerning bills introduced in and requiring further action by that house.

(6) After the next to last Friday in June, neither house shall pass bills introduced in that house.

(7) After August 10, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning bills introduced in the other house requiring further consideration by the fiscal committees. Such a report may be received from a policy committee on or before August 20, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(8) After August 20, the Secretary of the Senate and the Chief Clerk shall not receive a committee report concerning bills which require further action in their respective houses.

(9) After August 20, no committee shall meet for the purpose of hearing any bill.

(c) If a bill is acted upon in committee before the relevant deadline and the committee votes to report the bill out with amendments that have not at the time of the vote been prepared by the Legislative Counsel, the Secretary of the Senate and the Chief Clerk may subsequently receive a report at any time within two legislative days after the deadline recommending the bill for passage or for rereferral together with the amendments.

(d) Bills in the house of origin not acted upon during the odd-numbered year as a result of the deadlines contained in paragraph (a) may be acted upon when the Legislature reconvenes after the interim study joint recess, or at any time the Legislature is recalled from such joint recess.

(e) The deadlines imposed by this rule shall not apply to the Rules Committees of the respective houses.

(f) The above deadlines shall not apply in instances where a bill is referred to committee under Joint Rule 26.5.

(g) There shall be no committee meetings held during the week preceding the summer recess of the odd-numbered year, and none during the week which includes the next-to-last Friday in June of the even-numbered year.

(h) This rule may be suspended as to any particular bill by approval of the Rules Committee and two-thirds vote of the members of the house.

(i) Except as provided in subparagraphs (a) (6) and (b) (9), and subdivision (g), the deadlines imposed by this rule shall not apply to those bills which go into immediate effect pursuant to Article IV, Section 8(c).

Committee Procedure

62. (a) Notice of a hearing on a bill by the committee of first reference in each house shall be published in the file at least four days prior to the hearing. Otherwise, notice shall be published in the file two days prior to the hearing. Such notice may be waived by a majority vote of the house in which the bill is being considered. A bill may be set for hearing in a committee only three times. A bill is "set" for purposes of this subdivision whenever notice of the hearing has been published in the file for one or more days. If a bill is set for hearing, and the committee, on its own initiation and not the author's, postpones the hearing on the bill or adjourns the hearing while testimony is being taken, such hearing shall not be counted as one of the three times a bill may be set. After hearing the bill, the committee may vote on the bill. If the hearing notice in the file specifically indicates that "testimony only" will be taken, such hearing shall not be counted as one of the three times a bill may be set. A committee may not vote on a bill so noticed until it has been heard in accordance with this rule. After a committee has voted on

a bill, reconsideration may be granted only one time. Reconsideration may be granted within 15 legislative days or prior to the interim study joint recess, whichever first occurs. A vote on reconsideration cannot be taken without the same notice required to set a bill unless such vote is taken at the same meeting at which the vote to be reconsidered was taken and the author is present. When a bill fails to get the necessary votes to pass it out of committee or upon failure to receive reconsideration, it shall be returned to the Chief Clerk of the Assembly or Secretary of the Senate of the house of the committee and may not be considered further during the session.

This subdivision may be suspended with respect to a particular bill by approval of the Rules Committee and two-thirds vote of the members of the house.

(b) If the committee adopts amendments other than those offered by the author and orders the bill reprinted prior to its further consideration, the hearing shall not be the final time a bill may be set under subdivision (a) of this rule.

(c) When a standing committee takes action on a bill, the vote shall be by rollcall vote only. All rollcall votes taken by a standing committee shall be recorded by the committee secretary on forms provided by the Chief Clerk of the Assembly and the Secretary of the Senate. The chairman or chairwoman of each standing committee shall promptly transmit a copy of the record of the rollcall votes to the Chief Clerk of the Assembly or the Secretary of the Senate, respectively, who shall cause the votes to be published as prescribed by each house.

The provisions of this subdivision shall also apply to action of a committee on a subcommittee report. The rules of each house shall prescribe the procedure as to rollcall votes on amendments.

Any committee may, with the unanimous consent of the members present, substitute a rollcall from a prior bill, provided that the members whose votes are substituted are present at the time of the substitution.

At no time shall a bill be passed out by a committee without a quorum being present.

The provisions of this subdivision shall not apply to:

(1) Procedural motions which do not have the effect of disposing of a bill.

(2) Withdrawal of a bill from a committee calendar at the request of an author.

(3) Return of bills to the house where the bills have not been voted on by the committee.

(4) The assignment of bills to committee.

(d) The chairman or chairwoman of the committee hearing a bill, may, at any time, order a call of the committee. Upon a request by any member of a committee or the author in person, the chairman or chairwoman shall order the call.

In the absence of a quorum a majority of the members present may

order a quorum call of the committee and compel the attendance of absentees. The chairman or chairwoman shall send the Sergeant at Arms for those members who are absent and not excused by their respective house.

When a call of a committee is ordered by the chairman or chairwoman with respect to a particular bill, he or she shall send the Sergeant at Arms or any other person to be appointed for that purpose for those members who have not voted on that particular bill and are not excused.

A quorum call or a call of the committee with respect to a particular bill may be dispensed with by the chairman or chairwoman without objection by any member of the committee, or by a majority of the members present.

If a motion is adopted to adjourn the committee while the committee is operating under a call, the call shall be dispensed with and any pending vote announced.

The committee secretary shall record the votes of members answering a call. The rules of each house may prescribe additional procedures for a call of a committee.

Uniform Rules

63. No standing committee of either house shall adopt or apply any rule or procedure governing the voting upon bills which is not equally applicable to the bills of both houses.

Votes on Bills

64. Every meeting of each house and standing committee or subcommittee thereof where a vote is to be taken on a bill, or amendments to a bill, shall be public.

Conflicting Rules

65. The provisions of Rule 50 and following of these rules prevail over any conflicting joint rule with a lesser number.

RESOLUTION CHAPTER 41

Assembly Concurrent Resolution No. 53—Relative to Joint Committee on Educational Goals and Evaluation.

[Filed with Secretary of State May 19, 1975.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Committee on Educational Goals and Evaluation is continued in existence under the same charge and with the same funds already assigned to complete its study of educational goals and evaluation pursuant to Resolution Chapter 231

of the Statutes of 1974; and be it further

Resolved, That, notwithstanding Resolution Chapter 231 of the Statutes of 1974, the committee shall terminate its study no later than July 31, 1975, and submit a final report to the Legislature prior to termination.

RESOLUTION CHAPTER 42

Senate Joint Resolution No. 1—Relative to the use of ad valorem taxes as a source of revenue for operation and maintenance of waste water treatment facilities.

[Filed with Secretary of State May 20, 1975]

WHEREAS, Legal counsel to the U.S. Comptroller General has interpreted the user charge requirements of Section 204 (b) (1) of Public Law 92-500 in such a manner as to preclude the use of ad valorem taxes as a source of revenue for operation and maintenance of waste water treatment facilities; and

WHEREAS, The U.S. Environmental Protection Agency has instructed its regional offices to initiate steps to withdraw federal grant assistance from any local agency in nonconformance with this section; and

WHEREAS, The elimination of ad valorem taxes as one of several possible sources of revenue will needlessly and drastically restrict the financial operations of many local agencies; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and the Congress of the United States to amend Public Law 92-500 to permit the use of ad valorem taxes as one possible source of revenue for the operation and maintenance of waste water treatment facilities; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 43

Senate Joint Resolution No. 16—Relative to the Highway Trust Fund.

[Filed with Secretary of State May 22, 1975.]

WHEREAS, The President has recently advanced the release of $2 billion from the Highway Trust Fund for the starting of projects in the 1975–76 fiscal year to stimulate the economy by providing employment in construction and related industries; and

WHEREAS, There now exists a multibillion dollar balance in the Highway Trust Fund authorized for expenditure by the Congress but never released for its intended purposes; and

WHEREAS, California motorists annually provide more than 10 percent of the money going into the Highway Trust Fund; and

WHEREAS, In recent years, the amount of federal aid for transportation from the Highway Trust Fund returned to California is only approximately 65 percent of that contributed; and

WHEREAS, Recent federal legislation has greatly increased the number of special programs of less than national significance and eliminated the flexibility and broad latitude formerly delegated to the states in the administration and use of highway trust funds; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to take such steps as necessary to immediately release the existing balance of impounded funds in the Highway Trust Fund to the states for any highway transportation purposes, including, but not limited to, state and local highway systems, with emphasis on gap closing, safety improvements, bridge replacements, and transit-related facilities; and be it further

Resolved, That the funds be usable, at the discretion of the states, without matching requirements in order to achieve the President's objectives of stimulating the economy; and be it further

Resolved, That federal legislation be enacted so that no state's share of federal aid for highways from the Highway Trust Fund shall be less than 85 percent of the amount contributed by that state; and be it further

Resolved, That federal aid highway programs be reduced to only those of national significance: interstate, rural, and urban; and that the administration of these programs be at the state level to reestablish a workable state-local relationship; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 44

Assembly Joint Resolution No. 9—Relative to bilingual television programming.

[Filed with Secretary of State May 29, 1975.]

WHEREAS, In the fall of 1974, an innovative bilingual children's television program known as "Villa Alegre" made its debut nationally; and

WHEREAS, "Villa Alegre" is produced by Bilingual Children's Television, Inc., a California nonprofit corporation based in Oakland, California; and

WHEREAS, Utilizing the most singularly powerful medium in existence today, "Villa Alegre" is aimed for children at the formative years where its impact can be of most value to the viewer; and

WHEREAS, "Villa Alegre" provides a sense of identity as well as understanding and appreciation of the Spanish and English languages, instills a sense of pride and confidence in the heritage of the Spanish-speaking community, introduces monolingual children to a new linguistic melody, and broadens curriculum experiences, while celebrating cultural diversity; and

WHEREAS, The program helps to create a linguistic and cultural bridge within the home, school, and total community and can serve as an effective educational tool in complying with recent United States Supreme Court decisions involving bilingual education; and

WHEREAS, Bilingual Children's Television, Inc., producers of "Villa Alegre," has developed invaluable expertise in bilingual children's television programming, has compiled extensive research data on bilingual children, and has gained a keen insight into the educational needs of children during the formative years; and

WHEREAS, The value and impact of "Villa Alegre" on all children in the United States is manifest in its institutional, civic and community support and its utilization in homes and classrooms nationally; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to assure the continuation of "Villa Alegre" for all children; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 45

Assembly Concurrent Resolution No. 86—Approving the amendments to the Charter of the City of Long Beach, State of California, ratified by the qualified electors of the city at a special municipal election held therein on the fifth day of November, 1974.

[Filed with Secretary of State June 5, 1975.]

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

CERTIFICATE OF ADOPTION BY THE QUALIFIED ELECTORS OF THE CITY OF LONG BEACH AT A SPECIAL MUNICIPAL ELECTION HELD THEREIN ON NOVEMBER 5, 1974, OF FOUR AMENDMENTS TO THE CHARTER OF THE CITY OF LONG BEACH, STATE OF CALIFORNIA.

State of California
County of Los Angeles } ss.
City of Long Beach

We, Edwin W. Wade, Mayor of the City of Long Beach, and Elaine Hamilton, City Clerk of the City of Long Beach, do hereby certify as follows:

That said City of Long Beach, in the County of Los Angeles, State of California, is now, and was at all of the 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; and

That said City of Long Beach is now, and was at all of the times herein mentioned, organized and existing under a freeholders' charter adopted under the provisions of the Constitution of the State of California, which charter was duly ratified by a majority of the electors of said City at a special election held therein on the 14th day of April, 1921, and approved by the Legislature of the State of California and filed with the Secretary of State of the State of California on the 26th day of April, 1921, (Statutes of 1921, page 2054); and

That the legislative body of said City, namely, the City Council thereof, did, by motions duly adopted and pursuant to the provisions of Section 3, Article XI, of the Constitution of the State of California, duly vote to submit to the qualified electors of said City of Long Beach four amendments to the Charter of said City and ordered that said proposed amendments be submitted to said qualified electors of said City at a Special Municipal Election to be held in said City on the 5th day of November, 1974; and

That said proposed amendments to be so submitted on November 5, 1974, were designated as Propositions GG, HH, JJ and KK and were duly published the 13th day of September, 1974, in the Long Beach Independent and in each edition thereof during said date of publication; and

That said Long Beach Independent was, upon the date of said publication, and at all times since has been, and now is, a daily newspaper of general circulation within said City of Long Beach, and was, upon the date of the publication of said proposed amendments, and at all times since has been and now is, published in said City and said newspaper was, upon the date of the publication of said proposed amendments, and at all times since has been and now is, the official newspaper of said City, and was the newspaper designated by said City Council for the publication of said proposed amendments; and

That said proposed amendments were duly and regularly printed in convenient pamphlet form and, at and during the time and in the manner provided by law, a notice was published in said Long Beach Independent that such copies of said proposed amendments could be had upon application therefor in the office of the City Clerk of said City, and said proposed amendments so printed in convenient pamphlet form were duly and regularly distributed in the manner provided by law; and

That said City Council did, by an ordinance designated as Ordinance No. C-5148, order the holding of said special municipal election in said City of Long Beach on November 5, 1974, which date was not less than forty nor more than sixty days after the completion of the publication of said proposed amendments, as aforesaid, and that said ordinance was published at least three times in said Long Beach Independent ten days prior to the date of said election, to wit: October 23, 1974, October 24, 1974, and October 25, 1974, and

That said special municipal election was held in said City of Long Beach on November 5, 1974, which day was not less than forty nor more than sixty days after the completion of the publication of said proposed amendments once in said Long Beach Independent as aforesaid; and

That the City Council did, by resolution adopted on the 10th day of December, 1974, duly declare the results of said special municipal election and did duly find, determine and declare that a majority of the qualified voters of said City of Long Beach voting thereon had voted in favor of and had ratified said proposed amendments; and

That said proposed amendments to the Charter of the City of Long Beach, so ratified by the voters of said City as aforesaid, are respectively in words and figures as follows, to wit:

PROPOSITION GG—CHARTER AMENDMENT

That the Charter of the City of Long Beach be amended by amending Subsection 11 of Section 217 and Sections 132.135, 2291, 293, 294, 294.1, 295 and 297 thereof to read as follows:

Sec. 217.

(11) To make contracts in the name of said Board to carry into effect the powers granted the Board of Water Commissioners in this Charter; provided, that all contracts wherein the expenditure of funds of the Water Department exceeds the amount established by ordinance of the City Council for City departments, except contracts for labor, materials or supplies for actual emergency work, shall be made and entered into upon competitive bidding as provided in Article XXVI of this Charter, and all powers and duties therein conferred or imposed upon the City Council and/or City Manager are hereby conferred and imposed upon the Board. At the time of publication of notice inviting bids, specifications of the supplies or materials required, or the plans and specifications of the work to be done, must be on file in the office of the Board, subject to public inspection. Except as provided in Section 294.1, all supplies and/or materials, not required to be obtained upon competitive bidding, or for actual emergency work, shall be procured for said Board by the City Purchasing Agent, in accordance with procedures prescribed therefor by the City Manager as shall not be in conflict with this Charter or other applicable law.

Sec. 132.135. Except as otherwise provided in this charter, every claim and demand against the city and payroll of the city shall, before presentation to the City Auditor, be approved by the City Manager or a person or persons designated by the City Manager to sign claims, demands and payrolls in lieu of said City Manager, by affixing one of the authorized signatures to the voucher attached to such claim or demand, or by affixing one of the authorized signatures to a register of vouchers indicating for each disbursement the name of the payee, voucher number and the amount of the claim or demand, or by affixing one of the authorized signatures to the City payroll. If the City Manager, or one of his designated representatives, disapproves a voucher, he shall remove said voucher document from current payments, delete it from the accompanying register of vouchers and return it to the City Accountant for cancellation and certify the remaining vouchers for transmittal to the City Auditor, provided, that the City Council may, by ordinance, require such further approval of such claims, demands or payrolls, or any thereof, as it may see fit; provided, further, that where any claim, demand or payroll is chargeable to or payable out of any fund under the jurisdiction and control of any board or commission of the city, then any such claim, demand or payroll shall, before presentation to the City Auditor, be approved in such manner as said board or commission may, by resolution or order, designate.

Contracts

Sec. 2291. All contracts, except where the expenditure involved does not exceed the amount established by ordinance of the City Council for city departments shall be made and entered into upon competitive bidding in the manner and form as provided in Article XXVI of this Charter, and all powers and duties therein conferred or imposed upon the City Council are, in relation to all matters connected with the port, hereby conferred and imposed upon the Board, and all powers and duties therein conferred or imposed upon the City Manager are, in relation to all matters connected with the port, hereby conferred and imposed upon the General Manager of the Harbor Department. Plans and specifications at the time of publication of notice inviting such bidding must be on file in the office of the Board, subject to public inspection. Except as provided in Section 294.1, all supplies and/or materials not required to be obtained upon competitive bidding, or for actual emergency work, shall be procured for said Board by the City Purchasing Agent, in accordance with procedures prescribed therefor by the City Manager as shall not be in conflict with this Charter or other applicable law.

Contracts

Sec. 293. The City of Long Beach shall not be and is not bound by any contract, except as otherwise provided herein, unless the same is made in writing, by order of the City Council, and signed by the City Manager or by some other person in behalf of the City authorized so to do by the City Manager; provided, that the approval of the form of the contract by the City Attorney shall be endorsed thereon before the same shall be signed on behalf of the City; but the City Council, by ordinance duly adopted, may authorize the City Manager, or any commission, board or agent of the City, with the written approval of the City Manager, to bind the City without a contract in writing for the payment of services, supplies, materials, equipment and labor or other valuable consideration furnished to the City of Long Beach in an amount not exceeding the limit established by ordinance of the City Council. The Board of Harbor Commissioners and the Board of Water Commissioners may authorize contracts, in writing or otherwise, without advertising for bids, for the payment of services, supplies, materials, equipment and labor or other valuable consideration furnished to the City of Long Beach in an amount not exceeding the limit established by ordinance of the City Council.

Bids for Contracts to Be Called

Sec. 294. All contracts, except as otherwise provided in this charter, or by general law, for the city or any of the departments or

public institutions thereof, must be made by the City Manager with the lowest responsible bidder whose bid is in regular form, after one publication of a notice calling for bids in the official newspaper of the city; said notice shall contain a brief description of the services, supplies, materials, equipment or labor required, and the amount of bonds required of the successful bidder, and state the hour and day on which said bids will be opened; said bids shall be opened not less than five days nor more than thirty days after such publication of the notice calling for bids; except that the City Council may, by resolution adopted by the affirmative vote of five members of the City Council, authorize the City Manager to enter into a contract on behalf of the city, in writing or otherwise, without advertising for bids for services, supplies, materials, equipment or labor for actual emergency work.

Sec. 294.1. The requirements of sections 293 and 294 of this Charter shall not apply to purchases made on behalf of the City from any governmental body, officer or agency by the City Manager and the General Managers of the Harbor and Water Departments.

The City, the Board of Harbor Commissioners and the Board of Water Commissioners may participate in joint and cooperative purchasing of services, supplies, materials, equipment and labor with other cities, counties, districts, state and federal governments or other governmental agencies, singly, jointly, or in districts or associations, by purchasing under their contracts on a voluntary and selective basis when authorized by a resolution of the City Council, Board of Harbor Commissioners or Board of Water Commissioners, respectively. Such purchasing shall be in accordance with enabling legislation under federal and state statutes and revisions, amendments, executive orders, and rules and regulations pertaining thereto.

Sealed Bids Accompanied With Certified Check Required

Sec. 295. All bids, except for services, supplies, materials, equipment and labor not exceeding the limit established by ordinance of the City Council, must be sealed bids, accompanied by a certified check payable to the City, and drawn on a solvent bank of the United States of America, or a satisfactory bond for an amount equal to ten per centum of the bid. No bid bond will be required when the City advertises for advancement of funds pursuant to provisions of this charter.

Bond for Faithful Performance of Contract Required

Sec. 297. The City Manager and the General Managers of the Harbor and Water Departments shall require such faithful performance bonds as may be required by the City Council, the Board of Harbor Commissioners and the Board of Water Commissioners, respectively, to be filed with contracts entered into

by them on behalf of the City, and such other bonds as may be required by law, but excluding contracts for materials, supplies and equipment and contracts not exceeding the limit established by ordinance of the City Council. All such bonds shall have the approval of the City Attorney endorsed thereon before the contract is signed by the City Manager or the General Managers of the Harbor and Water Departments on behalf of their respective boards, or other person authorized so to do, and when such contract is so signed, the ten per centum (10%) accompanying the bid shall be returned to the bidder. If the bidder to whom the contract is awarded shall, for ten (10) days after such contract is tendered to him for signature, fail or neglect to enter into such contract and file the required bond or bonds, the City Treasurer shall draw the money due on the certified check or bank draft accompanying the bid or declare the bond accompanying the bid forfeited and collect the money due thereon and pay the same into the City Treasury, and under no circumstances shall the check or the proceeds thereon be returned to the defaulting bidder.

PROPOSITION HH—CHARTER AMENDMENT

That the Charter of the City of Long Beach be amended by amending Section 132.100 thereof to read as follows:

Sec. 132.100. The City Auditor shall be elected by the qualified electors of the City of Long Beach, and shall hold office for three (3) years, and until his successor has been elected and qualified.

1. The City Auditor shall be a Certified Public Accountant or a Public Accountant with a current license to practice in the State of California; or

2. The City Auditor shall hold the professional designation as "Certified Internal Auditor" awarded by the Institute of Internal Auditors, Inc.; and

3. The City Auditor shall have held at least one of the professional designations indicated above for a period of five (5) years or more on the date of election as City Auditor.

*

PROPOSITION JJ—CHARTER AMENDMENT

That the Charter of the City of Long Beach be amended by amending Sections 202c, 202d and 202n thereof to read as follows:

Sec. 202c. The Director of Recreation of the City of Long Beach shall be appointed by the City Manager with confirmation by the City Council and shall serve as Coordinating Director for the Playground and Public Recreation Program of the City of Long Beach and of the City Schools. This section shall not be construed as to grant the Director of Recreation of the City of Long Beach the authority to supervise any of the employees or otherwise direct any

activities of the Recreation Program of the City Schools without obtaining the expressed approval of the Recreation Commission and the Superintendent of Schools.

Sec. 202d. The City Manager, upon the recommendation of the director shall appoint or discharge such supervisors, assistants, and other employees as shall be necessary, and none of the supervisors, assistants, or others engaged in technical recreation work shall be under civil service.

Sec. 202n. Should it be determined by either the unanimous vote of the Board of Education, or the unanimous vote of the Playground and Public Recreation Commission, or of both, that it is advisable to discontinue the coordinated plan of playground and recreation and supervision and administration, as in this article provided, then written notice of such decision shall be given to the other Board herein named by the board making such decision, and one (1) year thereafter such plan shall be discontinued; then in that event, all the foregoing provisions of this chapter shall remain in full force and effect, except that the number of members of the Playground and Public Recreation Commission shall be reduced to seven (7), and the Superintendent of Public Schools and member of the Board of Education shall no longer by virtue of their office be members thereof.

PROPOSITION KK—CHARTER AMENDMENT

That the Charter of the City of Long Beach be amended by adding thereto the following new Section 115a:

Sec. 115a. Commencing with the elections in 1977, the members of the Board of Education shall be elected as set forth in this Article XII on the third Tuesday in March instead of the first Friday in April as provided in Section 115 of this Article XII.

That the foregoing is a full, true and correct copy of said proposed amendments to the Charter of the City of Long Beach, ratified by the electors of said City, as aforesaid, on file in the office of the City Clerk of said City of Long Beach.

In witness whereof, Edwin W. Wade, Mayor, as aforesaid, and Elaine Hamilton, City Clerk, as aforesaid, have hereunto set their hands and caused the corporate seal of the City of Long Beach to be thereunto duly affixed on this 29th day of April, 1975.

(SEAL)

EDWIN W. WADE
Mayor of the City of
Long Beach
ELAINE HAMILTON
City Clerk of the City of
Long Beach

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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of these proposed charter amendments; 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 Long Beach, as proposed to, and adopted and ratified by, the electors of the city as hereinabove fully set forth, are hereby approved as a whole, without alteration or amendment, for the City of Long Beach.

RESOLUTION CHAPTER 46

Assembly Concurrent Resolution No. 5—Relative to the printing of bills and measures.

[Filed with Secretary of State June 9, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That notwithstanding any prior joint rule of the Senate and Assembly, the State Printer shall observe the directions of the Joint Rules Committee in printing all bills, constitutional amendments, and concurrent and joint resolutions.

RESOLUTION CHAPTER 47

Assembly Concurrent Resolution No. 57—Relative to the Joint Rules.

[Filed with Secretary of State June 9, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the following is adopted as a temporary joint rule for the 1975–76 Regular Session:

Bills Amending Title 9 of the Government Code

8.8. A member who is the first-named author of a bill which would amend, add, or repeal any provision of Title 9 (commencing with Section 81000) of the Government Code, upon introduction or amendment of such bill in either house shall notify the Chief Clerk or the Secretary, as the case may be, of the nature of such bill. Thereafter, the Chief Clerk or the Secretary shall deliver a copy of

such bill as introduced or amended to the Fair Political Practices Commission pursuant to Section 81012 of the Government Code.

RESOLUTION CHAPTER 48

Senate Concurrent Resolution No. 47—Relative to congratulating Clark L. Bradley on retirement.

[Filed with Secretary of State June 9, 1975.]

WHEREAS, The Honorable Clark L. Bradley, after serving as Member of the California Legislature for 22 years, has ended his devoted service to the people of the State of California and to his constituents in the 14th Senatorial District; and

WHEREAS, Senator Bradley was born in Topeka, Kansas, and lived in Michigan and Ohio before moving to San Jose, where he has since lived; and

WHEREAS, Senator Bradley is a graduate of San Jose High School, San Jose State College, and Hastings College of the Law; and

WHEREAS, Senator Bradley opened his law practice in San Jose in 1931, which he maintained until World War II, during which time he served with the United States Navy Reserve, obtaining the rank of Lieutenant Commander; and after World War II he returned to San Jose and resumed his law practice; and

WHEREAS, Senator Bradley's illustrious career as a public servant began with his election to the San Jose City Council, and included six years as a member of the city council and two years as Mayor of San Jose; and

WHEREAS, Senator Bradley was elected to the Assembly in the State Legislature in 1953 where he served until 1963, and to the Senate in 1962 where he continued to serve for the next 12 years; and

WHEREAS, As a Member of the Assembly, Senator Bradley served as Chairman of the Assembly Committee on Municipal and County Government, and also as the Assembly representative on the California Law Revision Commission; and

WHEREAS, As a Senator, Clark Bradley conscientiously served his constituents, especially in the areas of the judiciary, revenue and taxation, local government, and insurance and financial institutions; and

WHEREAS, Senator Bradley is the author of the Franchise Investment Law, designed to protect investors against fraud; the Bradley-Burns Act, which permitted cities and counties to undertake major public improvements financed with sales tax; the California Pure Air Act, and other environmental and antipollution measures; and many hundreds of other bills; and

WHEREAS, Senator Bradley has been listed in "Who's Who in American Politics" for many years; and

WHEREAS, Senator Bradley has served his fellow man with his participation in the Santa Clara Council of the Boy Scouts of America, the American Red Cross, the Salvation Army, the Good Samaritan Hospital, the San Jose Kiwanis Club, the Audubon Society, the Sierra Club, the Smithsonian Institution, and the American Academy of Political and Social Science; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Members express their appreciation to their former colleague and good friend, the Honorable Clark L. Bradley, for his 22 years of dedicated service to his constituents and to all of the people of the State of California, and convey to him their sincere best wishes for success in his future endeavors; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to Senator Clark L. Bradley.

RESOLUTION CHAPTER 49

Senate Concurrent Resolution No. 52—Approving amendments to the Charter of the City of Watsonville, State of California, ratified by the qualified electors of the city at a special municipal election, consolidated with the statewide general election held therein on the fifth day of November, 1974.

[Filed with Secretary of State June 18, 1975]

WHEREAS, Proceedings have been taken and had for the proposal, adoption, and ratification of amendments to the Charter of the City of Watsonville, a municipal corporation in the 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 WATSONVILLE OF CERTAIN CHARTER AMENDMENTS

State of California
County of Santa Cruz } ss.
City of Watsonville

We, the undersigned, William Johnston, Mayor of the City of Watsonville, and Dorothy Bennett, City Clerk of the City of Watsonville, do hereby certify and declare as follows:

That the City of Watsonville, County of Santa Cruz, State of California, is a city containing a population of more than three thousand five hundred (3,500) and less than fifty thousand (50,000) inhabitants as ascertained by the last preceding census taken under

the authority of the Congress of the United States, and ever since the year 1960 has been and now is organized, existing and acting under a freeholders charter adopted under and by virtue of Section 3 of Article XI, of the Constitution of the State of California, which Charter was duly ratified by the qualified electors of said city at a special election held for that purpose on the 16th day of February, 1960, and approved by the Legislature of the State of California by concurrent resolution filed with the Secretary of State on the 15th day of March, 1960.

That in accordance with the provisions of Section 3 of Article XI of the Constitution of the State of California, the Council of the City of Watsonville, being the legislative body of said city, on its own motion, by its Resolution No. 204-74 (CM) adopted on August 13, 1974 duly and regularly proposed and submitted to the qualified electors of said city certain proposals for amendment of the Charter of said city, to be voted on by said qualified electors at a Special Municipal Charter Amendment Election consolidated with the General Election held in said city on November 5, 1974.

That said proposed amendments were published and advertised for the time and in the manner prescribed by the laws of the State of California, on the 6th day of September, 1974 in the Watsonville Register-Pajaronian, the official newspaper of the City of Watsonville, a newspaper of general circulation printed and published in the City of Watsonville, and in each edition thereof during said day of publication.

That said General Election and Special Municipal Charter Amendment Election consolidated therewith were duly called, held and conducted in the time, form and manner required by the Charter of said city and by law on the 11th day of November, 1974, which day was not less than forty and not more than sixty days after the completion of said publication and advertisement of said proposed amendments in the Watsonville Register-Pajaronian.

That a majority of the qualified voters voting on said amendments voted in favor of the ratification of, and did ratify, said amendments to the Charter.

That the Council of the City of Watsonville officially confirmed the canvass of all ballots cast at said Special Municipal Charter Amendment Election, and did by resolution, duly find and declare that a majority of the qualified voters voting on said Charter amendments, voted in favor thereof and that the Charter amendments were ratified.

That said Charter amendments so ratified by the majority of the qualified voters of said city voting at said Special Municipal Charter Amendment Election were to amend Sections 402 and 403 of Article IV, and to amend Sections 601 and 611 of Article VI of the Charter of the City of Watsonville, in words and figures as follows, to wit:

1. By amending Section 402 of Article IV thereof, which Section now reads as follows:

"Section 402. Term of Office. Except as otherwise provided in this Section, the Mayor and Council Members shall hold office for a term of four (4) years from and after the first Tuesday following their election and continuing until their respective successors qualify. If, at any municipal election for members of the Council, there shall be no choice between candidates by reason of two (2) or more candidates having received an equal number of votes, then the Council shall proceed to determine the election of such candidates by lot."

2. By amending Section 403 of Article IV thereof, which Section now reads as follows:

"Section 403. Eligibility. No person shall be eligible to be nominated for or to hold office as a member of the Council unless he is, and shall have been for at least one (1) year next preceding his election and appointment, a resident and qualified registered elector of the City of Watsonville or of territory annexed thereto. The Council shall be the judge of the election and qualifications of its members as defined in this Section."

3. By amending Section 601 of Article VI thereof, which Section now reads as follows:

"Section 601. Adoption of Ordinances. Each ordinance shall be introduced in writing. With the sole exception of ordinances which take effect upon adoption, referred to in this Article, no ordinance shall be adopted by the Council on the day of its introduction, nor within six (6) days thereafter, nor at any time other than a regular or adjourned regular meeting, nor until such ordinance shall have been published as required by this Charter. 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 six (6) 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."

4. By amending Section 611 of Article VI thereof, which Section now reads as follows:

"Section 611. Ordinances: Violation and Penalty. The Council may make the violation of its ordinances either (a) a misdemeanor which may be prosecuted in the name of the People of the State of California, or may be redressed by civil action and may prescribe punishment for such violation by a fine not to exceed Five Hundred and no/100ths ($500.00) Dollars or by imprisonment not to exceed six (6) months, or by both such fine and imprisonment, or (b) an infraction which may be prosecuted in the name of the People of the State of California, or may be redressed by civil action and may prescribe punishment for such violation solely by a fine and not to exceed Five Hundred and no/100ths ($500.00) Dollars."

And we and each of us further certify that we have compared the foregoing proposed and ratified amendments to the Charter of the

City of Watsonville with the original proposals submitting the same to the electors of said City and find that the foregoing is a full, true and correct copy of said amendments.

In witness whereof, we have hereunto set our hands and caused the seal of the City of Watsonville to be affixed this 27th day of May, 1975.

(SEAL)

WILLIAM JOHNSTON
Mayor of the City of Watsonville
DOROTHY BENNETT
City Clerk of the City of Watsonville

and

WHEREAS, The proposed amendments to the charter, as adopted and ratified as hereinabove set forth, have been and now are 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of these proposed amendments; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly 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 Watsonville, as proposed to, and adopted and ratified by, the electors of the city, as hereinabove fully set forth, 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 Watsonville.

RESOLUTION CHAPTER 50

Senate Joint Resolution No. 19—Relative to the seizure of tuna boats.

[Filed with Secretary of State June 18, 1975]

WHEREAS, Repeatedly, the tuna fishermen of this country have been harassed, have had their livelihoods imperiled, and have had their lives endangered, due to the seizure of their tuna clippers flying the United States flags on the high seas; and

WHEREAS, Recently, Ecuador seized seven tuna clippers of this country within the self-proclaimed 200-mile territorial limit of its coast, by the use of some former American Navy and Coast Guard vessels; and

WHEREAS, Some of the crew members of such tuna clippers were

harassed and assaulted and their vessels were detained for nearly a month, their catch was confiscated, and they were fined a total of over one and a half million dollars; and

WHEREAS, Despite our government's reimbursement of the United States flag tuna clipper owners under the Fishermen's Protective Act of 1967, the personal losses sustained by the fishermen and vessel owners over the past 13 years run well over one million dollars; and

WHEREAS, Since 90 percent of the United States' tuna catch is taken off foreign shores, the tuna fishing industry will not be able to survive if there is a constant threat of harassment or seizure of our tuna clippers by foreign countries; and

WHEREAS, The federal government should take appropriate actions to sanction the countries such as Ecuador for seizing our tuna clippers, including, perhaps, the discontinuance of our military aid to any such country, the deduction of the cost of any such seizure to the United States from the amount of its allocated share of foreign aid, or the imposition of restrictions on the importation into this country of fish products from such a country; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States and the Secretary of State to take any and all appropriate actions to protect the tuna fishing industry of this nation and to ensure that Ecuador or any other country will not harass or seize tuna boats flying United States flags on the high seas; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of State, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 51

Senate Concurrent Resolution No. 32—Relative to the Joint Legislative Budget Committee.

[Filed with Secretary of State June 18, 1975.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That in addition to any money heretofore made available to it, the sum of two million two hundred thousand dollars ($2,200,000), or so much thereof as may be necessary, is hereby allocated from the Contingent Funds of the Assembly and Senate for the payment of any and all expenses incurred by the Joint Legislative Budget Committee or its members pursuant to and under the authority of law or the provisions of Joint Rule No. 37.

RESOLUTION CHAPTER 52

Senate Concurrent Resolution No. 50—Relative to Board of Medical Examiners.

[Filed with Secretary of State June 18, 1975]

WHEREAS, The Board of Medical Examiners of the State of California is moving toward the issuance of new physician and surgeon certificates to doctors of osteopathic medicine originally holding valid physician and surgeon certificates issued by the Board of Osteopathic Examiners of the State of California; and

WHEREAS, Substantial questions of legality are presented by the contemplated action of the Board of Medical Examiners; and

WHEREAS, These questions of law may shortly be resolved by an appellate court decision on a matter now before such court; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Board of Medical Examiners withhold and desist from the issuance of physician and surgeon certificates to former doctors of osteopathic medicine employing the suffix M.D., and holding physician and surgeon certificates issued by the Board of Osteopathic Examiners, until the legality of such act is finally determined by the courts of this state; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Board of Medical Examiners.

RESOLUTION CHAPTER 53

Senate Joint Resolution No. 9—Relative to the California Air National Guard.

[Filed with Secretary of State June 18, 1975]

WHEREAS, The United States Department of Defense has announced its decision to abandon the multimillion dollar airbase of the California Air National Guard at Ontario and relocate the unit at March Air Force Base near Riverside, where minimum facilities are available; and

WHEREAS, This announced move will create an extreme hardship on the Ontario community since the air guard expends more than two million dollars in payrolls into the local economy each year; and

WHEREAS, The Ontario Air National Guard Base facilities are far superior in size, age and state of repair than those proposed for the guard's use at March Air Force Base; and

WHEREAS, The existing facilities are well suited and adaptable for the new tactical support mission; now, therefore, be it

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Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the United States Department of Defense to rescind its announced plan to relocate the 163rd Tactical Support Group from Ontario International Airport to March Air Force Base; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Secretary of Defense and the Governor of the State of California.

RESOLUTION CHAPTER 54

Assembly Joint Resolution No. 7—Relative to medical care for illegal aliens.

[Filed with Secretary of State June 18, 1975]

WHEREAS, There is an immediate need for legislation to provide for the reimbursement of medical treatment facilities for emergency treatment given aliens unlawfully in the United States; and

WHEREAS, Legislative authority currently exists for the United States Public Health Service to provide care to illegal aliens, upon the request of the Immigration and Naturalization Service; and

WHEREAS, The counties of this state are currently bearing an unreasonable financial responsibility for the provision of medical services for illegal aliens; and

WHEREAS, Legislation has been introduced by Congressman B. F. Sisk (H.R. 2159) which would provide financial relief to counties by authorizing the Attorney General to reimburse providers for the cost of emergency medical treatment given to illegal aliens; and

WHEREAS, H.R. 2159 requires the Immigration and Naturalization Service to assume jurisdiction over any illegal alien in need of emergency medical care and to request treatment in United States Public Health Service facilities, if feasible; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact H.R. 2159, or any similar legislation, providing reimbursement for the cost of emergency medical care for illegal aliens; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 55

Assembly Joint Resolution No. 29—Relative to a San Luis national cemetery.

[Filed with Secretary of State June 18, 1975.]

WHEREAS, The California Department Commanders Veterans Council has unanimously agreed that a new national cemetery should be established by the United States on existing federal land at the site of San Luis Dam near the City of Los Banos, California; and

WHEREAS, This proposal has been concurred with by the American Legion Department of California, the Council of Administration of the Veterans of Foreign Wars of the State of California, and the national and state bodies of the American G.I. Forum of the United States; and

WHEREAS, The San Luis site has been selected by the Veterans Administration for the reasons that the site has been declared surplus to public needs; is adjacent to a California state park, assuring the site will not be overrun with commercial or residential development; is located in the center of the state, with major highways giving easy accessibility to the site; is in reasonable proximity to eight commercial airports; is located in a reasonable distance to four military installations, and is readily accessible to California veterans, as well as more than 2 million veterans living in the 10 other western states; and

WHEREAS, The United States Department of Interior, Bureau of Reclamation, has 2,000 acre-feet of water available for use by the national cemetery from the San Luis Dam; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation to establish a national cemetery on federal land at the site of San Luis Dam near the City of Los Banos, California; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 56

Assembly Joint Resolution No. 2—Relative to the Salton Sea.

[Filed with Secretary of State June 20, 1975]

WHEREAS, The Salton Sea in southern California is a recreational resource of outstanding value to the entire nation; and

WHEREAS, Rising salinity will destroy its value within a few years unless corrective action is taken immediately; and

WHEREAS, A salt-trapping impoundment at the southeastern side of the Salton Sea has been endorsed after several years of study by federal, state, and local officials; and

WHEREAS, A federal-state environmental impact report on the proposed project is strongly favorable to the project; and

WHEREAS, Failure to save the sea from increasing salinity may result in the destruction of fish life after 1980 and the environmental and economic decay of the area; and

WHEREAS, Federal participation in the project is more than justified because of the nationwide significance of the resource, and the proprietary interest of the federal government in the project area; now, therefore, be it

Resolved by the Assembly and the Senate of the State of California, jointly, That the Legislature of the State of California respectfully urges the Department of the Interior to maintain the Salton Sea project as a high priority item for federal funding purposes, and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 57

Assembly Concurrent Resolution No. 83—Relative to medical malpractice insurance.

[Filed with Secretary of State June 23, 1975.]

WHEREAS, The people of the State of California face a serious crisis in health care delivery because of an inability of physicians and surgeons to obtain medical malpractice insurance at reasonable rates and their refusal to practice medicine without insurance; and

WHEREAS, A sudden rise in premiums for such insurance is the direct cause of the immediate crisis; and

WHEREAS, Conflicting data about the experience of insurance companies in writing medical malpractice insurance prevents the Legislature from making an informed decision on numerous pieces of legislation attempting to deal with the problem of medical malpractice insurance; and

WHEREAS, In order for the Legislature to resolve the problems facing the medical profession, the insurance industry, and persons in

need of health care, it is necessary to determine conclusively whether medical malpractice insurance written by various insurance companies in California has or will result in a financial loss to those companies, and, if so, why; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, As follows:

(1) The Joint Legislative Audit Committee is directed to investigate the subject of medical malpractice insurance underwriting and claims as it affects physicians and surgeons in California, including audits of insurance companies, as may be necessary for the committee's investigation, and to employ independent actuary consultants to assist in the audit investigation and provide any other necessary assistance to determine the justification of existing and future medical malpractice insurance rates.

(2) The committee shall utilize the office of the Auditor General as staff, to the extent possible, in the completion of this investigation.

(3) The committee shall report its conclusions and recommendations to the Legislature.

(4) The report submitted to the Legislature shall not disclose any individual claim reserve information which reveals the amount set aside for any particular claim. Nothing in this paragraph shall be construed to restrict any examination of individual claim files. Findings based upon such records may be disclosed in a manner which does not relate reserve information to identifiable individual claims.

RESOLUTION CHAPTER 58

Senate Concurrent Resolution No. 48—Approving the amendments to the Charter of the City of Albany, State of California, ratified by the qualified electors of the city at a special municipal election, consolidated with the statewide general election held therein on the fifth day of November, 1974.

[Filed with Secretary of State June 24, 1975]

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

Resolution No. 74-100

A resolution of the Council of the City of Albany providing that a certain proposal to amend the Charter of the City of Albany be submitted to a vote of the qualified electors of the said city.

The Council of the City of Albany does resolve as follows:

That the Council deems it necessary and desirable to propose an amendment to the Charter of the City of Albany; that the Council hereby proposes, on its own motion, that the following proposal be submitted to the electors of the City of Albany for their approval or rejection at the statewide general election to be held on the fifth day of November, 1974; said proposed amendment is as follows:

Proposed Charter Amendment No. 3

That the Charter of the City of Albany be amended by deleting from Section 38(a) of said Charter the third sentence thereof which now reads, "They shall receive no compensation for their services as members of the Board of Education."

Be it further resolved that the foregoing proposed Charter amendment be published in the "Albany Times", a newspaper of general circulation within the City of Albany, which newspaper is hereby designated for that purpose, and such publication shall be completed not more than sixty (60) days nor less than forty (40) days before the date of the election herein provided for.

RICHARD O. CLARK
Mayor of the City of Albany

Passed and approved by the Council of the City of Albany this 19th day of August, 1974, by the following votes:

Ayes: Councilmen Gleason, Griffin, Mayor Clark

Noes: Councilmen Call, Hein

Absent: None

Witness my hand and the seal of the City of Albany this 19th day of August, 1974.

PATRICIA A. GEORGE
City Clerk of the City of Albany

Resolution No. 74-101

A resolution of the Council of the City of Albany providing that a certain proposal to amend the Charter of the City of Albany be submitted to a vote of the qualified electors of the said city.

The Council of the City of Albany does resolve as follows:

That the Council deems it necessary and desirable to propose an amendment to the Charter of the City of Albany; that the Council hereby proposes, on its own motion, that the following proposal be submitted to the electors of the City of Albany for their approval or rejection at the statewide general election to be held on the fifth day of November, 1974; said proposed amendment is as follows:

Proposed Charter Amendment No. 4

That the Charter of the City of Albany be amended by deleting Section 49-n thereof, and adding the following, to make Section 49-n read:

There is hereby created a Police Department, which shall consist of the Chief of the Police Department, and one or more of the following classifications: captains, lieutenants, sergeants, police officers, and police officer-clerks. In addition, other classifications or sub-classifications may be designated when they are needed to designate duty or job functions.

To the end that there be no disruption in the present service of the Police Department, on the effective date of this section, the present title of inspector (II) shall become that of captain, the present title of inspector (I) shall become that of lieutenant, the present title of patrolmen shall become that of police officer, the present title of policewoman-clerk shall become that of police officer-clerk.

Be it further resolved that the foregoing proposed Charter amendment be published in the "Albany Times", a newspaper of general circulation within the City of Albany, which newspaper is hereby designated for that purpose, and such publication shall be completed not more than sixty (60) days nor less than forty (40) days before the date of the election herein provided for.

RICHARD O. CLARK
Mayor of the City of Albany

Passed and approved by the Council of the City of Albany this 19th day of August, 1974, by the following votes:

Ayes: Councilmen Call, Gleason, Griffin, Hein, Mayor Clark
Noes: None
Absent: None

Witness my hand and the seal of the City of Albany this 19th day of August, 1974.

PATRICIA A. GEORGE
City Clerk of the City of Albany

WHEREAS, The proposed amendments to the 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of the proposed amendment; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly 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 Albany, as proposed to, and adopted and ratified by, the electors of the city as hereinabove fully set forth, is hereby approved as a whole, without alteration or amendment, for and as amendments to, and as part of, the Charter of the City of Albany.

RESOLUTION CHAPTER 59

Assembly Concurrent Resolution No. 26—Relative to pupil and school evaluations.

[Filed with Secretary of State June 24, 1975]

WHEREAS, The Legislature has declared its intent that pupils and their parents should directly participate in school-community based goal setting; and

WHEREAS, The Joint Committee on Educational Goals and Evaluation has been directed to study and recommend systems of educational evaluation; and

WHEREAS, The Legislature recognizes its obligation to protect the rights and responsibilities of children and the young in the educational processes established by the state; and

WHEREAS, The intent of this resolution is to emphasize that the active learning of pupils is the purpose for which schools exist and that the continuous involvement of pupils and their parents in decisions which affect their lives helps realize that purpose; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That it is the desire of the Legislature that public school pupils and their parents be given the opportunity to play a meaningful part in the development of any educational evaluation program or system that evaluates pupils or their schools pursuant to guidelines developed by the Joint Committee on Educational Goals

and Evaluation and the State Department of Education; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Superintendent of Public Instruction, members of the State Board of Education, each county superintendent of schools, and each elementary, high school, and unified school district governing board in the state.

RESOLUTION CHAPTER 60

Assembly Joint Resolution No. 11—Relative to use of chlordane.

[Filed with Secretary of State June 25, 1975]

WHEREAS, The chemical chlordane has proven to be of inestimable benefit in the production of citrus fruit and other agricultural products; and

WHEREAS, The use of chlordane in the production of citrus fruit permits and supports the successful use of predators and parasites which provide biological control of destructive citrus pests; and

WHEREAS, No other pesticide achieves the same results as chlordane, and the use of substitutes would increase the cost of citrus production significantly and impair biological control programs; and

WHEREAS, As the agricultural industry is being called on for greater levels of food production, the use of chlordane becomes more crucial; and

WHEREAS, The evidence of suspected harmful effects has not been demonstrated or observed in controlled patterns of pesticide use; and

WHEREAS, Chlordane is highly controlled when used in California citrus groves, is used for ground application only, and then usually in granulated form so that no drift occurs; and

WHEREAS, There has been no evaluation of the possible harmful effects of chlordane associated with such uses, and further study and information is needed; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to require the United States Environmental Protection Agency to delay any action that might eliminate chlordane or heptochlor from those pesticides acceptable for agricultural uses, until an in-depth hearing of the problem, one meeting of which should be held in California, where evidence of the safe and controlled use of chlordane can be properly presented to the Environmental Protection Agency and the results of such hearing are made public; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each

Senator and Representative from California in the Congress of the United States and to the Administrator of the Environmental Protection Agency.

RESOLUTION CHAPTER 61

Senate Concurrent Resolution No. 43—Relative to amending Rule 24 of the Joint Rules of the Senate and Assembly.

[Filed with Secretary of State June 27, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That Rule 24 of the Joint Rules of the Senate and Assembly is amended to read:

Enrollment of Bill After Passage

24. After a bill has passed both houses it shall be printed in enrolled form, omitting symbols indicating amendments, and shall be compared by the Engrossing and Enrolling Clerk and the proper committee of the house where it originated to determine that it is in the form approved by the houses The enrolled bill shall thereupon be signed by the Secretary of the Senate and Chief Clerk of the Assembly and, except as otherwise provided by these rules, presented without delay to the Governor. The committee shall report the time of presentation of the bill to the Governor to the house and the record shall be entered in the journal. After enrollment and signature by the officers of the Legislature, constitutional amendments, and concurrent and joint resolutions shall be filed without delay in the office of the Secretary of State and the time of filing shall be reported to the house and the record entered in the journal.

RESOLUTION CHAPTER 62

Senate Joint Resolution No 22—Relative to veterans' cemeteries.

[Filed with Secretary of State June 27, 1975]

WHEREAS, The United States Congress, as a national policy, has provided for the interment of our servicemen and veterans by finding appropriate locations to bury those who have served our nation with valor; and

WHEREAS, The Veterans' Administration has selected March Air Force Base as one of the final sites for a national veterans' cemetery, and the base is adjacent to the 695 acres available for the cemetery

and could extend all necessary utilities; and

WHEREAS, The land is presently owned by the Department of Defense and could easily be transferred to the Veterans' Administration; and

WHEREAS, By September, the Los Angeles National Veterans' Cemetery will be completely full, Fort Rosecrans National Cemetery is already full, and the March Air Force Base site could accommodate deceased servicemen and veterans until 2000 A.D.; and

WHEREAS, The March Air Force Base location is adjacent to Interstate 15, a highway running from Canada to Mexico, and is approximately one hour's drive from Los Angeles, San Diego, and Orange Counties; and

WHEREAS, The cemetery would be close to mountain, desert, ocean, and inland lake recreational areas; and

WHEREAS, The location could also accommodate servicemen from the States of Nevada and Arizona, and ceremonies could easily be conducted because of a year-round moderate climate; and

WHEREAS, March Air Force Base is rich in military history, with such great military heroes as Fred Eglin, Hoyt S. Vandenberg, Nathan Twining, Thomas S. Powers, Curtis E. LeMay, H. H. Arnold, Ira Eaker, Emmett O'Donnell, and Colin Kelly having been stationed there; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Veterans' Administration to establish a veterans' cemetery at March Air Force Base, California; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the office of the Administrator of Veterans' Affairs, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 63

Senate Concurrent Resolution No. 34—Relative to the Joint Committee on Legal Equality.

[Filed with Secretary of State June 30, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Legal Equality and the Advisory Committee thereto, as created and empowered by Resolution Chapter 114 of the Statutes of 1973, are hereby continued in existence until January 31, 1976, by which date the joint committee shall submit its findings and recommendations to the Legislature, and they shall continue to have the powers and duties granted and imposed by the resolution by which they were created; and be it further

Resolved, That the advisory committee shall consist of six women appointed by the joint committee, one of whom shall be selected from the Commission on the Status of Women and one from the California Legislative Round Table.

RESOLUTION CHAPTER 64

Senate Concurrent Resolution No. 44—Relative to the Joint Committee on the Federal Social Security Amendments of 1972.

[Filed with Secretary of State June 30, 1975.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on the Federal Social Security Amendments of 1972 is continued in existence through January 1, 1976, notwithstanding the provisions of any prior concurrent resolution affecting such committee. The committee shall continue to have the powers and duties granted and imposed by the resolution creating or continuing it. The committee may expend any funds heretofore or hereafter made available and further allocations may be made by the Joint Rules Committee; provided that, in accordance with Joint Rule 36.8, any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 65

Assembly Joint Resolution No. 15—Relative to labeling of self-pressurized containers.

[Filed with Secretary of State June 30, 1975]

WHEREAS, The increasing awareness in the public mind of the hazards of aerosol or self-pressurized containers to individuals and to the environment requires that consumers be able to identify all ingredients contained in aerosol or self-pressurized containers before purchasing or using the commodities packaged in this manner; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to support and enact legislation requiring that all aerosol and self-pressurized containers be labeled with a list of all ingredients, including inert ingredients, with the percentages of such ingredients, and designating propellants as such; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 66

Assembly Concurrent Resolution No. 16—Relative to the Education Code.

[Filed with Secretary of State June 30, 1975]

WHEREAS, The Legislature during its 1973–74 Regular Session passed and the Governor signed A.B. 27 as Chapter 1508 of the Statutes of 1974; and

WHEREAS, Chapter 1508 added Sections 7503 and 7503.5 to the Education Code, which provisions, upon their respective operative dates, will restructure the Education Code to make it less restrictive, and thus grant local governing boards of school districts more local autonomy with respect to initiating and carrying out educational programs, activities, and other actions in their respective districts; and

WHEREAS, There is concern on the part of some persons as to the effects of this increased authority at the local level and the possible abuses that might occur; and

WHEREAS, The Legislature is very concerned that this granted authority be used wisely and judiciously; and

WHEREAS, The Legislature still maintains the power to amend the Education Code in whatever ways it feels necessary; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Superintendent of Public Instruction is directed to establish and maintain a central clearinghouse-depository for legal opinions which are published or otherwise made available to the superintendent, but not limited to, opinions issued by the offices of the several county counsels, the office of the Legislative Counsel, and the office of the Attorney General, with respect to the legal ramifications of the provisions of Chapter 1508 of the Statutes of 1974; and be it further

Resolved, That the Superintendent of Public Instruction and the Chancellor of the California Community Colleges are directed to conduct continuing surveys throughout the state of the manner in which the local authority is being exercised by the governing boards of school districts, including community college districts, and that the superintendent and the chancellor are also directed to hold public hearings giving opportunity for the public to react and report their

experience with the operation of schools under the provisions of the less restrictive Education Code; and be it further

Resolved, That the Superintendent of Public Instruction and the Chancellor of the California Community Colleges shall report to the Legislature annually and by January 15 during the years of 1976 through 1980, inclusive, concerning the findings and recommendations involved in such surveys and hearings, and the superintendent and the chancellor shall also submit findings and recommendations concerning the anticipated costs incurred in the implementation of Chapter 1508; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Superintendent of Public Instruction and the Chancellor of the California Community Colleges.

RESOLUTION CHAPTER 67

Assembly Concurrent Resolution No. 66—Relative to the Joint Committee on Aging.

[Filed with Secretary of State June 30, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Committee on Aging is continued in existence until July 31, 1976. The committee shall continue to have the powers and duties granted and imposed by the resolution creating or continuing it. The committee may expend any funds heretofore or hereafter made available and further allocations may be made by the Joint Rules Committee; provided that, in accordance with Joint Rule 36.8, any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 68

Assembly Concurrent Resolution No. 89—Relative to the American Revolution Bicentennial Commission of California.

[Filed with Secretary of State June 30, 1975]

WHEREAS, The year 1976 marks the 200th year after the founding of the United States of America; and

WHEREAS, The development of the United States as one of the most advanced nations in the world can be attributed directly to its technical achievements; and

WHEREAS, California enjoys over 17 percent of the technical capability of the United States; and

WHEREAS, California's technical industry has contributed significantly to the national defense, space exploration, advances in air transportation, electronics, and many other benefits to the state, the United States, and the world; and

WHEREAS, There are over 70 institutions of higher education in California offering degrees in engineering, architecture, science, and technology; and

WHEREAS, It is fitting for Californians to recognize its greatness in engineering, science, architecture, and technology during the bicentennial year, and to welcome others to share in this celebration; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members endorse and support the efforts of the California Engineering Foundation, in cooperation with the California Society of Professional Engineers and other engineering and scientific organizations, in the conduct of a conference and exposition depicting 200 years of technical progress; and be it further

Resolved, That the California Legislature commends this action by the engineering and scientific community and for its contributions to California greatness and solicits the support of governmental agencies, industry, and educational institutions in making this celebration a major success; and be it further

Resolved, That the California Legislature endorses this conference and exposition depicting 200 years of technical progress as an official project for the bicentennial celebration as approved by the American Revolution Bicentennial Commission of California.

RESOLUTION CHAPTER 69

Assembly Concurrent Resolution No. 98—Relative to making additional funds available to the Joint Legislative Audit Committee.

[Filed with Secretary of State June 30, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That in addition to any money heretofore made available to it, the sum of one million seven hundred sixty-three thousand dollars ($1,763,000), or so much thereof as may be necessary, is hereby made available from the Contingent Funds of the Assembly and Senate for the payment of any and all expenses of the Joint Legislative Audit Committee (created by Section 10501 of the Government Code) and its members and for any charges, expenses, or claims it may incur, to be paid from the said fund and disbursed, after certification by the chairman of the committee, upon warrants drawn by the State Controller upon the State Treasury.

RESOLUTION CHAPTER 70

Senate Concurrent Resolution No. 56—Relative to public employer-employee relations.

[Filed with Secretary of State July 1, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the termination date of the Joint Committee on Public Employer-Employee Relations, established pursuant to Resolution Chapter 177 of the Statutes of 1972, is extended until August 31, 1975.

RESOLUTION CHAPTER 71

Senate Joint Resolution No. 3—Relative to limitations on food advertising to children.

[Filed with Secretary of State July 1, 1975]

WHEREAS, A majority of children watch television during children's television viewing hours; and

WHEREAS, Parents do not or are unable to monitor children's viewing habits; and

WHEREAS, Of the average 940 hours of television viewed annually by a child, more than one-fifth is devoted to commercial messages; and

WHEREAS, It has been demonstrated that advertising does influence and affect the attitudes, values, and practices of children; and

WHEREAS, Children are unable to differentiate between contradictory bodies of advertising information; and

WHEREAS, The majority of advertising to children is for edibles; and

WHEREAS, The majority of foods advertised on children's television have a high sugar and high carbohydrate content; and

WHEREAS, High sugar and carbohydrate consumption leads to poor eating habits, unbalanced diet, and poor health; and

WHEREAS, Recent Federal Trade Commission and Federal Communications Commission guidelines on television advertising do not adequately regulate food advertising on children's television; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the President and Congress of the United States, the Federal Trade Commission, and the Federal Communications Commission to make such changes in the laws and regulations as are necessary in order to limit or, where appropriate, eliminate any commercial segment

broadcast during television programs designed for children and aired between the hours of 7 a.m. and 6 p.m. daily that represents a name brand product for which there is satisfactory evidence indicating that it contributes adversely to the nutritional well-being of children; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and the Vice President of the United States, to the Federal Trade Commission, and the Federal Communications Commission, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 72

Senate Joint Resolution No. 17—Relative to American servicemen missing in action.

[Filed with Secretary of State July 1, 1975]

WHEREAS, Five hundred sixty-six American military prisoners of war have now been released by their Communist captors and have returned to their thankful and grateful nation; and

WHEREAS, According to the office of the Secretary of Defense, 1,233 United States servicemen are unaccounted for and listed as missing in action as a result of the conflict in Vietnam, a nebulous status which has been a continuous source of uncertainty, grief, and despair for the friends, relatives, and loved ones they have waiting in the United States; and

WHEREAS, Those members of the armed forces of the United States who have suffered, and may still be suffering, internment as prisoners of war as a result of the war in Vietnam have made great sacrifices for their country; and

WHEREAS, New information recently released by the North Vietnamese government and a Member of the United States Senate has caused new hope and at the same time has increased uncertainty as to the status of men listed as missing in action and unrecovered prisoners of war; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to take whatever action is necessary to obtain a full accounting from the government of North Vietnam for every American who was listed as missing in action in the Vietnam war prior to the completion of American troop withdrawals from the war in 1973, and to make such information available to the American public; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States,

to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 73

Senate Concurrent Resolution No. 46—Relative to Vietnamese refugees.

[Filed with Secretary of State August 6, 1975.]

WHEREAS, One hundred thousand to two hundred thousand Vietnamese and Cambodians are fleeing to the United States as a result of the fall of South Vietnam and Cambodia; and

WHEREAS, The United States must always be a refuge for those who seek to make a new life in liberty; and

WHEREAS, America is a land of immigrants; and

WHEREAS, The United States can and must be a place where the prosperity of its own citizens is compatible with the freedom of others; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That we welcome the refugees to the United States and extend to them our hopes for a prosperous new life.

RESOLUTION CHAPTER 74

Assembly Concurrent Resolution No. 56—Relative to bills.

[Filed with Secretary of State August 7, 1975.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That Rule 29.5 of the Temporary Joint Rules of the Senate and Assembly for the 1975–76 Regular Session is amended to read:

Conference Committees

29.5. (a) All meetings of any conference committee on the Budget Bill shall be open and readily accessible to the public.

No conference committee on any bill may meet, consider, or act on the subject matter of the bill except in a meeting that is open and readily accessible to the public; unless the action is on a report determined by the Legislative Counsel to be nonsubstantive. The Legislative Counsel shall examine each proposed report and shall note upon the face of the report that the amendments proposed are "substantive" or "nonsubstantive" as the case may be.

The chairman or chairwoman of the conference committee of each house shall give notice to the file clerk of both houses of the time and place of such meeting. Notice of each public meeting shall be published in the file of each house two working days prior to the meeting, except that such notice shall not be required for a meeting of a conference committee on the Budget Bill. When the provisions of this subdivision are waived with respect to a meeting of any public conference committee, and when there is a meeting of a conference committee on the Budget Bill, every effort shall be made to inform the public that such a meeting has been called.

(b) The first committee on conference of the Budget Bill, if such a committee is appointed, shall submit its report to each house no later than 15 days after the Budget Bill has been passed by both houses. If such report is not submitted by such date, the conference committee shall be deemed to have reached no agreement and shall so inform each house pursuant to Rule 30.7.

(c) A committee on conference of the Budget Bill shall only consider differences between the version of the Budget Bill as passed by each house and shall not approve any item of expenditure nor control which exceeds that contained in one of the two versions before the conference committee.

(d) No conference committee on any bill, other than the Budget Bill, shall approve any substantial financial provision in any bill if such financial provision has not been heard by the fiscal committee of each house, nor shall any such conference committee approve substantial policy char es which have not been heard by the policy committee of each house.

RESOLUTION CHAPTER 75

Assembly Joint Resolution No. 13—Relative to the Federal Power Commission.

[Filed with Secretary of State August 11, 1975]

WHEREAS, Under present federal law, the sale of power by utility companies to cities in the State of California is regulated by the Federal Power Commission; and

WHEREAS, That commission neither conducts audits of the books of those suppliers, nor allows the cities to conduct such audits and, additionally, that commission allows the suppliers to directly pass on increased fuel costs to the consumer cities; and

WHEREAS, These and related practices on the part of the commission and the suppliers have resulted in a fuel charge increase of from 100 percent to 600 percent to residential users in the City of Riverside, California, over the last two-month billing period; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to consider legislation that would require the Federal Power Commission to audit suppliers of power to cities in California and that would restrict the suppliers' ability to pass on fuel cost increases to the consumer city; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 76

Senate Concurrent Resolution No. 24—Relative to Carmel Bay Ecological Reserve.

[Filed with Secretary of State August 11, 1975]

WHEREAS, California, with almost one-quarter of the nation's total coastline, has the longest coastline of the 48 continental United States; and

WHEREAS, The central coast of California is recognized as one of the most beautiful and popular stretches of coastline in the United States; and

WHEREAS, Carmel Bay contains one of the most precious and fragile underwater ecosystems in the world; and

WHEREAS, The adjacent Point Lobos State Reserve is recognized as one of America's prime examples of ecological foresight; and

WHEREAS, The environmental quality of Carmel Bay has an effect on the aquatic life in the Reserve; and

WHEREAS, In 1970 Jacques Yves-Cousteau, the distinguished authority on underwater environment, after studying the Carmel Bay-Point Lobos area, wrote:

"1. That the proposed area is extremely rich in marine fauna and flora;

2. That the underwater sceneries are very beautiful;

3. That the local ecosystem is, nevertheless, limited in size and thus is very vulnerable. In fact, there are preliminary signs of possible degradation. It badly needs protection";

and

WHEREAS, The continued use and overuse of Carmel Bay without control or direction is now rapidly deteriorating this irreplaceable resource; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Director of the Department of Fish and

Game and the Fish and Game Commission are hereby urged to take the necessary steps to establish a Carmel Bay Ecological Reserve between the Point Lobos State Reserve and Pescadero Point pursuant to Article 4 (commencing with Section 1580), Chapter 5, Division 2 of the Fish and Game Code, and to provide regulations for such a Reserve that would permit sport fishing, diving, and restricted kelp harvesting; and be it further

Resolved, That copies of this resolution be transmitted to the Director of the Department of Fish and Game and the Fish and Game Commission.

RESOLUTION CHAPTER 77

Assembly Constitutional Amendment No. 31—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 11 of Article XI thereof, relating to public funds.

[Filed with Secretary of State August 19, 1975]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1975–76 Regular Session commencing on the second day of December, 1974, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 11 of Article XI thereof to read:

SEC. 11. (a) The Legislature may not delegate to a private person or body power to make, control, appropriate, supervise or interfere with county or municipal corporation improvements, money, or property, or to levy taxes or assessments, or perform municipal functions.

(b) The Legislature may, however, provide for the deposit of public moneys in any bank in this state or in any savings and loan association in this state and for the payment of interest, principal and redemption premiums of public bonds and other evidences of public indebtedness by banks within or without this state. It may also provide for investment of public moneys in securities and the registration of bonds and other evidences of indebtedness by private persons or bodies, within or without this state, acting as trustees or fiscal agents.

RESOLUTION CHAPTER 78

Senate Concurrent Resolution No. 23—Relative to non-English-speaking citizens.

[Filed with Secretary of State August 19, 1975]

WHEREAS, The Legislature has enacted laws during the past several years to provide information from state and local governmental agencies in languages other than English; and

WHEREAS, State agencies, as a result of legislation and upon their own initiative, have made materials available in languages other than English; and

WHEREAS, Recent years have witnessed a substantial increase in state materials and information available to the public in languages other than in English concerning the rights and responsibilities of citizens and agencies; and

WHEREAS, There is no current and comprehensive listing of state materials now available to the public in languages other than in English, and such a listing would be valuable to state and local agencies, community organizations, and to the public at large; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members request the Department of General Services to compile a list not later than January 1, 1976, of all materials available from state agencies in translation, including forms, instructions, signs, posters, films, tape recordings, and records; the prices thereof; and where each item may be obtained; and be it further

Resolved, That the Department of General Services is requested to make copies of this listing available to other state agencies and to the public; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of General Services.

RESOLUTION CHAPTER 79

Senate Concurrent Resolution No. 36—Relative to bilingual telephone service.

[Filed with Secretary of State August 19, 1975]

WHEREAS, The people of California are entitled to adequate, efficient, just and reasonable telephone service under Section 451 of the Public Utilities Code; and

WHEREAS, Substantial numbers of non-English-speaking persons are subjected to application of the law in English only; and

WHEREAS, These non-English-speaking persons frequently

experience serious communication problems with English-speaking personnel employed by telephone corporations operating in California; and

WHEREAS, These communication difficulties frequently jeopardize equal access to adequate, efficient, just and reasonable telephone service under law; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, as follows:

(1) That the Public Utilities Commission shall immediately undertake a comprehensive research study to identify and evaluate, in every phase of full telephone operator service and directory book service, the language needs of non-English-speaking persons; and

(2) That contact be made with the proper officials at all telephone corporations which service a substantial number of non-English-speaking persons to identify, collect and analyze all pertinent data relating to every phase of full telephone operator service and directory book service; and

(3) That contact be made with organizations which represent non-English-speaking persons in service areas which have a substantial number of such persons; and

(4) That contact be made with the Bell System in Canada to study the implementation of bilingual telephone service and directory book service in the Provinces of Quebec and Ontario; and

(5) That contact be made with the Canadian government to determine the effect of laws and policies relating to bilingual telephone service in that nation; and

(6) That the Public Utilities Commission should fully utilize appropriate consultant services and technical assistance in performing its function under this resolution; and

(7) That the study shall include:

(a) Identification of service areas where a substantial percentage of the population is non-English speaking;

(b) Identification of such service areas in which full bilingual operator service would comply with Section 451 of the Public Utilities Code;

(c) The development, design and most efficient method of providing full bilingual operator service in those areas described in subsection (a) to non-English-speaking persons in accordance with Section 451 of the Public Utilities Code;

(d) The development and design of bilingual pages and listings in telephone directories in such areas as described in subsection (a) including, but not limited to, dialing and rate information, emergency information, listings for emergency-related public and private agencies, listings for all other governmental agencies;

(e) The development and design of bilingual card inserts in public telephone booths in such areas as described in subsection (a);

(f) The cost involved in providing full bilingual operator service, and bilingual directories and telephone booth card inserts in those areas described in subsection (a);

(8) That this study should be completed by the Public Utilities Commission and a report made to the Legislature one year after this resolution is filed with the Secretary of State; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Public Utilities Commission.

RESOLUTION CHAPTER 80

Senate Joint Resolution No. 11—Relative to the Automotive Transport Research and Development Act of 1975.

[Filed with Secretary of State August 19, 1975.]

WHEREAS, There is presently pending before the Congress the Automotive Transport Research and Development Act of 1975; and

WHEREAS, Having the greatest number of motor vehicles and the greatest dependence upon automotive transportation, California would benefit significantly from research and development of advanced motor vehicles and components that would afford greater safety, enhance environmental protection, and conserve energy; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress and the President of the United States to accord full and favorable consideration to the research and development program which would be provided by the Automotive Transportation Research and Development Act of 1975; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative in the Congress of the United States.

RESOLUTION CHAPTER 81

Assembly Concurrent Resolution No. 32—Relative to State Highway Route 99.

[Filed with Secretary of State August 20, 1975]

WHEREAS, There is, between Merced and Modesto, a segment of Route 99 which is not completed to freeway standards; and

WHEREAS, This segment includes at-grade intersections and traffic signals at Livingston, Delhi, and Keyes; and

WHEREAS, Those traffic signals are the only remaining traffic signals on Route 99 between Los Angeles and Sacramento; and

WHEREAS, Planned highway improvements, known locally as the Livingston Freeway, Delhi Freeway, and Keyes Freeway projects, will eliminate these traffic signals and will also (a) reduce property damage, injuries, and fatalities resulting from traffic accidents, (b) reduce congestion and delay, and (c) reduce energy usage and adverse impact on the air environment; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Highway Commission is hereby urged to expedite the programming of improvements on State Highway Route 99 known as the Livingston Freeway and Keyes Freeway projects, to retain the Delhi Freeway project among projects now budgeted for construction in the 1975–76 fiscal year, and to budget the remaining freeway projects between Merced and Modesto on Route 99 as soon as possible thereafter, consistent with the availability of funds and the established procedure for setting priorities; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Highway Commission.

RESOLUTION CHAPTER 82

Assembly Concurrent Resolution No. 39—Relative to the California Law Revision Commission.

[Filed with Secretary of State August 20, 1975]

WHEREAS, The California Law Revision Commission is authorized to study only topics set forth in the calendar contained in its report to the Legislature and topics which have been referred to it for study by concurrent resolution of the Legislature; and

WHEREAS, The topic of whether a Marketable Title Act should be enacted in California and the related topics of whether the law relating to covenants and servitudes relating to land, and the law relating to nominal, remote, and obsolete covenants, conditions, and restrictions on land use should be revised are not presently authorized for study by the commission; and

WHEREAS, Those topics are in need of study; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature refers to the California Law Revision Commission for study the topic of whether a Marketable Title Act should be enacted in California and the related topics of whether the law relating to covenants and servitudes relating to land, and the law relating to nominal, remote, and obsolete covenants, conditions, and restrictions on land use should be revised; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of

this resolution to the California Law Revision Commission.

RESOLUTION CHAPTER 83

Assembly Concurrent Resolution No. 38—Relative to State Highway Route 126.

[Filed with Secretary of State August 21, 1975.]

WHEREAS, Widening the existing two-lane portion of State Highway Route 126 between Santa Paula and Interstate Route 5 to four lanes will reduce accidents and reduce congestion; and

WHEREAS, President Ford's announced release of $2 billion in impounded federal funds for highway construction projects will provide additional highway construction funding to the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Highway Commission and the Department of Transportation are urged to expedite the planning and allocation of funds for the earliest improvement of that portion of State Highway Route 126 between Santa Paula and Interstate Route 5 to a four-lane conventional highway; and be it further

Resolved, That the Chief Clerk transmit copies of this resolution to the California Highway Commission and the Director of Transportation.

RESOLUTION CHAPTER 84

Assembly Concurrent Resolution No. 59—Relative to the George Miller, Jr., Memorial Bridge.

[Filed with Secretary of State August 25, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Benicia-Martinez Bridge is hereby designated the George Miller, Jr., Memorial Bridge; and be it further

Resolved, That the Department of Transportation is hereby requested to erect and maintain appropriate signs at each end of the bridge showing its designation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the California Toll Bridge Authority and to the Director of Transportation.

RESOLUTION CHAPTER 85

Assembly Concurrent Resolution No. 68—Relative to the Coalinga-Avenal Rest Area.

[Filed with Secretary of State August 25, 1975.]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the safety roadside rest located on State Highway Route 5 near Lassen Avenue in the County of Fresno is hereby designated the Coalinga-Avenal Rest Area; and be it further

Resolved, That the Division of Highways in the Department of Transportation is hereby requested to erect appropriate signs and markers showing this official designation; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 86

Senate Concurrent Resolution No. 40—Relative to administrative adjudication of traffic offenses.

[Filed with Secretary of State August 25, 1975.]

WHEREAS, Over three-quarters of the nonparking filings in California's municipal courts involves processing more than 3.8 million moving traffic violations annually; and

WHEREAS, This steadily growing burden has made the prompt and judicious handling of criminal and civil cases increasingly difficult; and

WHEREAS, There is no persuasive evidence that the traditional criminal court process significantly deters traffic violators; and

WHEREAS, These problems continue despite the institution of numerous improvements by the California judicial system since 1950, including a uniform traffic citation, the statutory reclassification of many traffic violations from misdemeanors to infractions, and the experimental use of traffic commissioners by several courts to provide adjudication of traffic infractions; and

WHEREAS, The State of New York, faced with similar problems, adopted in 1970 an Administrative Adjudication Program which permits the Municipal Courts of New York City, Rochester, and Buffalo to retain their jurisdictions over serious traffic offenses such as vehicular homicide, drunk driving, and reckless driving, while providing for the transfer of traffic infractions such as speeding, improper lane change, and running red lights, to hearing officers in New York's Department of Motor Vehicles for administrative adjudication; and

WHEREAS, Following four years of operation, New York reports

that its program is handling over one million traffic cases annually, has contributed to the elimination of most of the backlog in the courts, and substantially speeded up the processing of traffic cases, thus promoting traffic safety through the prompt application of administrative remedies to convicted motorists, while at the same time protecting their legal rights; and

WHEREAS, On February 5, 1975, the United States Department of Justice designated New York's administrative adjudication program as an "exemplary project" which has significantly improved the operation and quality of the justice system and has demonstrated cost effectiveness, citing the use of trained hearing officers, the efficiency of a sophisticated computerized information system, and the effectiveness of merging the licensing agency and traffic offense adjudication agency; and

WHEREAS, In planning the administrative adjudication program, the Governor of New York appointed a special task force of distinguished lawyers, jurists, and representatives of the motoring public to develop a model for the program to follow; and

WHEREAS, Expeditious disposition of minor traffic cases is vital to California's highway safety programs and the problems of dealing with chronic traffic offenders; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Motor Vehicles is hereby requested to submit to the Legislature and the Governor by April 1, 1976, in cooperation with the Judicial Council, a feasibility study for implementing administrative adjudication of traffic cases in both urban areas having populations greater than 250,000 and areas having populations less than 250,000; and be it further

Resolved, That the Judicial Council is hereby requested to cooperate with and assist the department in making the feasibility study and in preparing the required report; and be it further

Resolved, That the Department of Motor Vehicles and the Judicial Council, in conducting the feasibility study, consult with the League of California Cities and the County Supervisors Association of California, particularly with respect to evaluating the impact of administrative adjudication on the mechanisms and costs of local law enforcement; and be it further

Resolved, That the Legislature, the Chairman of the Judicial Council, the League of California Cities, and the County Supervisors Association of California are hereby requested to appoint an Administrative Adjudication Advisory Committee comprised of nine distinguished representatives from the fields of law and government and the private sector to consider all of the basic elements contained in the New York program, experience elsewhere in the United States, and the status of judicial and administrative adjudication in California with related cost and benefit factors; and to cooperate with the department and the council in establishing guidelines for the study, including expressly the citation issuance and case preparation process, the arraignment, hearing, and decision process,

the examination of prior record and sanction process, and the review and appeals process. One member of the committee shall be the Director of Motor Vehicles who shall serve as the chairman of the committee. One member of the committee shall be appointed jointly by the League of California Cities and the County Supervisors Association of California. Two members of the committee shall be appointed by the Senate Committee on Rules. Two members of the committee shall be appointed by the Speaker of the Assembly. Three members of the committee shall be representatives of the courts appointed by the Chairman of the Judicial Council; and be it further

Resolved, That the potential integration of administrative adjudication, driver licensing, and postlicensing control functions at Department of Motor Vehicles field office sites be evaluated; and be it further

Resolved, That the Administrative Adjudication Advisory Committee be directed by the Legislature and the Chairman of the Judicial Council to review periodically the department's progress in conducting the feasibility study and submit comments and recommendations to the Governor and the Legislature by April 1, 1976; and be it further

Resolved, That the feasibility study be conducted with available planning resources within the Department of Motor Vehicles and the Administrative Office of the Courts. Members of the administrative advisory committee shall be reimbursed actual and necessary expenses by the department and the Administrative Office of the Courts from available resources; and be it further

Resolved, That, if implemented, the administrative adjudication system should be self-supporting through the collection of fines from traffic violators; and that after the reimbursement of system startup and operating costs, the system should provide increased net revenue distributions annually to local agencies from the General Fund; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Senate Committee on Rules, the Speaker of the Assembly, the Director of Motor Vehicles, the Chairman of the Judicial Council, the League of California Cities, and the County Supervisors Association of California.

RESOLUTION CHAPTER 87

Assembly Concurrent Resolution No. 40—Relative to State Highway Route 101.

[Filed with Secretary of State August 26, 1975]

WHEREAS, The 11-mile portion of State Highway Route 101 between Cochran Road in Morgan Hill and Ford Road in San Jose is not constructed to freeway standards; and

WHEREAS, This portion of Route 101 has been named "Blood Alley" because of the many fatal automobile accidents there in recent years; and

WHEREAS, Thirteen lives were lost on this portion of Route 101 in 1974, and this high fatality rate will continue until improvements are made there; and

WHEREAS, The urgency for improvements on this portion of Route 101 is further emphasized by the fact that a schoolbus carrying 79 children narrowly escaped an accident there; and

WHEREAS, Study and planning for the construction of this portion of Route 101 as a freeway was started over 20 years ago, and to date such construction has not commenced; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the California Highway Commission is hereby requested to immediately allocate funds for the construction of needed safety improvements on, and to grant a top priority rating for the freeway construction of, the 11-mile portion of State Highway Route 101 between Cochran Road in Morgan Hill and Ford Road in San Jose; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Highway Commission.

RESOLUTION CHAPTER 88

Assembly Concurrent Resolution No. 54—Relative to state employee merit awards.

[Filed with Secretary of State August 26, 1975.]

WHEREAS, Section 13926 of the Government Code provides awards may be made to state employees in excess of one thousand dollars ($1,000) when such awards are approved by concurrent resolution of the Legislature; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Lyman T. Dailey, Board of Equalization, for a suggestion that results in annual increased revenue of nine hundred seventeen thousand four hundred sixty-two dollars ($917,462), by suggesting a revision of the use tax clearance forms to permit the Board of Equalization to enter the sales price and tax amount when clearing the transfer of vehicles subject to use tax. This enables the Department of Motor Vehicles to collect the proper tax on the basis of the sales price instead of by a depreciation schedule based on vehicle age, which often does not reflect the true value of equipment added to the vehicle; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Linda J. Wilcox, Franchise Tax Board, for a suggestion which results in reduced costs and increased revenue of twenty-one thousand four hundred sixty-four dollars ($21,464), by suggesting a modification of computer programming to permit easier and more effective contact with the branches of large employers; and

WHEREAS, An award of one thousand seven hundred nine dollars ($1,709) has already been made to John D. Dykeman, Franchise Tax Board, who with the material assistance of his supervisor, F. L. Bunyard, submitted a suggestion which resulted in additional revenue and cost savings of sixty-eight thousand three hundred sixty-five dollars ($68,365) by suggesting a source of current addresses and better results when locating taxpayers subject to inquiry under the filing enforcement program; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Louis N. Gordon, Department of General Services, for a suggestion which resulted in one-time savings estimated to exceed one million dollars ($1,000,000) by first suggesting the state question the constitutionality of a provision of the Water Code, which would have required payment for the acquisition of a small railroad, to be inundated by the waters behind Oroville Dam, without consideration for its depreciated values, and, secondly, requesting and receiving permission to file an amicus curiae brief on the issues, with the ultimate result of an agreed settlement of several million dollars less than originally contemplated; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Lee R. Miller, Department of Health, for a suggestion which results in savings in time and material amounting to fourteen thousand nine hundred forty-nine dollars ($14,949) per year by recommending that a high-volume report, which is written in longhand and then typed, be replaced by a checksheet without further reproduction; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Roger K. Sutton, Department of California Highway Patrol, for a suggestion which results in annual savings of fifteen thousand six hundred thirty-nine dollars ($15,639) by devising a tool for repairing and performing annual calibration of portable scales used in law enforcement. The procedure enables the work to be performed more quickly, effectively and at considerably less cost than the manufacturer's method; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Michele R. Hollingsworth, Department of California Highway Patrol, for a suggestion which results in annual savings of eighty-two thousand two dollars ($82,002) by suggesting that the notification of court action, which is used approximately 355,000 times each year, be revised and reduced to envelope size, thus producing savings in time, material and better service to the public; and

WHEREAS, An award of one thousand dollars ($1,000) has already

been made to Carl Morgan, Department of Motor Vehicles, for a suggestion which results in annual savings of twenty-one thousand one hundred ninety-three dollars ($21,193) by recommending the discontinuance of the practice of picking up and stamping the license of drivers placed on probation. This eliminates double handling of licenses in stamping and then reissuing over 30,000 such items at the end of the probation period; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to John K. Jones, Department of Motor Vehicles, for a suggestion which results in annual savings of eighty-one thousand six hundred eighteen dollars ($81,618) by suggesting that the physical and mental examination and hearing procedures be revised so that the hearing and reexamination process be combined. This eliminates a duplicated effort and results in a much improved procedure; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Sharon D. Beard, Department of Motor Vehicles, for a suggestion which results in annual savings of thirteen thousand three hundred seventy-three dollars ($13,373) by suggesting that the department discontinue the practice of sending a second notice of suspension to problem drivers who fail to respond to the first notice; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Vesta F. Ryker, State Compensation Insurance Fund, for a suggestion which results in annual savings of thirteen thousand eight hundred ninety-three dollars ($13,893) by suggesting a revision of the accident prevention service report so that the insured's mailing address is included on it, thus saving time and material; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Gary L. Orr, State Compensation Insurance Fund, for a suggestion which results in annual savings of twenty thousand two hundred seventy-seven dollars ($20,277) by recommending changes in the policy index coverage procedures which eliminates certain hand operations, establishes a more current file and simplifies the training of new employees; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Maurice E. Cornelius, Department of Transportation, for a suggestion which resulted in savings exceeding one hundred thousand dollars ($100,000) by recommending an accounting procedure by which funds have been allocated to the highway construction program at an accelerated rate, thereby permitting construction to get underway sooner than planned, thus avoiding the inflated costs of the construction when delayed; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Karl R. Leutner, Department of Transportation, for a suggestion which resulted in one-time savings of one hundred ten thousand nine hundred fifty-four dollars ($110,954) by suggesting a method by which the new law requiring a change of construction sign color from yellow to orange is complied with by repainting rather than retiring the signs and installing entirely new ones; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Peter A. Hadley, Department of Transportation, who with the material assistance of his supervisor, Mr. Jean M. Smart, submitted a suggestion which results in annual savings of four hundred nineteen thousand two dollars ($419,202) in Highways District 07, by devising equipment which automatically secures air samples at programmed intervals thus reducing the man hours and miles of travel which had been required to personally sample the air at the required interval; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Goldie V. (Cope) Clem, Department of Veterans Affairs, for a suggestion which results in one-time savings of thirty-four thousand nine hundred seventy-five dollars ($34,975) by suggesting an alternative method for cleaning the windows at Yountville, thus making it unnecessary to install expensive belt hook equipment and yet still meet safety requirements; and

WHEREAS, An award of one thousand dollars ($1,000) has already been made to Wayman C. Luckey, Department of Water Resources, for a suggestion which results in annual savings of twenty thousand dollars ($20,000) through modification of the raking device which removes trash from the grids in the Department of Water Resources' South Bay Aqueduct Canal; and

WHEREAS, The suggestions of these employees have resulted in one-time and recurring savings and in recurring additional revenue amounting to two million eight hundred eighty-seven thousand one dollars ($2,887,001); and

WHEREAS, As a result of these savings and added revenue it is unnecessary to appropriate additional funds for the payment of these awards; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the following additional awards, which have been approved by the State Board of Control, are hereby authorized to the employees named:

Lyman T. Dailey, twenty-one thousand nine hundred thirty-seven dollars ($21,937)

Linda J. Wilcox, one thousand one hundred forty-five dollars ($1,145)

F. L. Bunyard, supervisor of John D. Dykeman, five hundred twelve dollars ($512)

Louis N. Gordon, twenty-four thousand dollars ($24,000)

Lee R. Miller, four hundred ninety-five dollars ($495)

Roger K. Sutton, five hundred sixty-four dollars ($564)

Michele R. Hollingsworth, seven thousand two hundred dollars ($7,200)

Carl Morgan, one thousand one hundred nineteen dollars ($1,119)

John K. Jones, seven thousand one hundred sixty-two dollars ($7,162)

Sharon D. Beard, three hundred thirty-seven dollars ($337)

Vesta F. Ryker, four hundred dollars ($400)

Gary L. Orr, one thousand thirty dollars ($1,030)

Maurice E. Cornelius, one thousand dollars ($1,000)

Karl R. Leutner, four thousand five hundred forty-eight dollars ($4,548)

Peter A. Hadley, nineteen thousand nine hundred sixty dollars ($19,960)

Jean M. Smart, supervisor of Peter A. Hadley, six thousand two hundred ninety dollars ($6,290)

Goldie V. (Cope) Clem, seven hundred forty-nine dollars ($749)

Wayman C. Luckey, one thousand dollars ($1,000); and be it further

Resolved, That the Chief Clerk of the Assembly is directed to transmit a copy of this resolution to the State Board of Control and the State Controller.

RESOLUTION CHAPTER 89

Senate Concurrent Resolution No. 21—Relative to public retirement system investments.

[Filed with Secretary of State August 26, 1975]

WHEREAS, Assets of state, University of California, and local public employee retirement systems amount to over $13 billion; and

WHEREAS, Assets of local public employee retirement systems, which are not contracting agencies of the Public Employees' Retirement System, total over $3 billion; and

WHEREAS, These funds are invested in a wide range of securities, including bonds, U.S. Government Treasury notes, common and preferred stock, real estate, commercial paper and other short-term securities; and

WHEREAS, Common voting stock held by these retirement systems is invariably voted in support of management or simply signed over as a proxy to management by the retirement board treasurer or by the system's fiduciary or investment advisor; and

WHEREAS, Votes in support of management's position on many occasions are against church and consumer organizations' proposals requesting greater corporate ownership accountability and social responsibility; and

WHEREAS, Many shareholder proposals before the annual meeting include issues relevant to women's rights, minority employment, corporate campaign contributions, the disclosure of noncompetitive information of a firm's foreign subsidiary operations, consumer protection and cumulative voting; and

WHEREAS, Local public employee retirement boards have no formal established procedure or structure to review shareholder proposals and make recommendations to the boards relative to

proposals introduced at annual corporate shareholder meetings; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That all local city, county, and special district retirement systems are requested to establish at their various levels advisory committees, comprised of public employees and retirees of the systems who shall comprise not less than one-third of the membership of the advisory committees, and members of the general public and the business community; and be it further

Resolved, That such advisory committees review shareholder proposals and make recommendations to the governing boards of the county, city, and special district retirement boards relative to the voting of shares on shareholder proposals before corporation annual shareholder meetings; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to every city, county, and special district retirement board in California.

RESOLUTION CHAPTER 90

Assembly Concurrent Resolution No. 47—Relative to sales of timber from Jackson State Forest.

[Filed with Secretary of State August 26, 1975]

WHEREAS, It is essential that agreements entered into for the sale of timber from Jackson State Forest allow a term of two years for the removal of timber; and

WHEREAS, Where agreements for the sale of timber from state forests have required timber removal within a one-year period, it has nearly always been found necessary to grant extensions; and

WHEREAS, Such one-year term agreements impose a considerable hardship on small timber operators who do not deal on a volume basis; and

WHEREAS, In view of the present depressed state of the economy, a two-year term timber sales agreement will afford the purchaser an opportunity to operate under improved market conditions if there is an economic upturn over the period; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Forester is hereby requested, as to the sale of timber from Jackson State Forest, to sell, or solicit bids for the sale of, timber under a sales agreement which would allow a term of two years for the removal of timber; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Forester.

RESOLUTION CHAPTER 91

Assembly Concurrent Resolution No. 52—Relative to the Ralph D. Percival Memorial Vista Point.

[Filed with Secretary of State August 26, 1975.]

WHEREAS, Mr. Ralph D. Percival served as a state traffic officer for the California Highway Patrol for 17 years, until his untimely death in the line of duty on June 3, 1974; and

WHEREAS, Officer Percival was given a certificate of commendation for his outstanding performance, several months prior to his death, for having ridden a motorcycle since 1959 without a preventable accident and for being the motorcycle training officer for his local area; and

WHEREAS, He was a person dedicated to serving the needs of others as an active member of the St. Lawrence the Martyr Church in Santa Clara and through his devotion of time to Y.M.C.A. activities with children; and

WHEREAS, Officer Percival was killed when struck by a vehicle operated by an intoxicated person when he was getting back on his motorcycle after having completed a routine traffic stop just north of Raymundo Drive on Interstate 280; and

WHEREAS, It is most fitting that the vista point located on Interstate 280 adjacent to the northbound lanes at postmile 8.5± be named after Officer Ralph D. Percival in recognition of his dedicated service to the people of the State of California; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the vista point on Interstate 280 adjacent to the northbound lanes at postmile 8.5± is hereby officially designated the Ralph D. Percival Memorial Vista Point; and be it further

Resolved, That the Department of Transportation is hereby directed to erect and maintain a suitable plaque or marker at such location indicating:

RALPH D. PERCIVAL MEMORIAL
VISTA POINT
State Traffic Officer
California Highway Patrol
Killed in line of duty June 3, 1974

; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to Mrs. Ralph D. Percival and a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 92

Assembly Concurrent Resolution No. 75—Relative to rural public transportation demonstration programs for the elderly and handicapped.

[Filed with Secretary of State August 26, 1975]

WHEREAS, It is in the interest of the state that the elderly and handicapped citizens in rural areas be provided with adequate, safe, and efficient public transportation facilities and services; and

WHEREAS, There is a need for adequate public transportation facilities and services for the elderly and handicapped, particularly in the rural areas of the state; and

WHEREAS, Subdivision (c) of Section 14000 of the Government Code states that the provision of adequate transportation mode, particularly the elderly and handicapped, should be an integral element of the planning process; and

WHEREAS, Section 16 of the Urban Mass Transportation Act of 1964 provides funds to the state, local public bodies, and private nonprofit corporations and associations for the specific purpose of assisting them in providing transportation services meeting the special needs of the elderly and handicapped; and

WHEREAS, Section 101(b) of the National Mass Transportation Assistance Act of 1974 provides authorization and the use of funds to be made available exclusively for assistance in areas other than urbanized areas; and

WHEREAS, Section 147 of the Federal-Aid Highway Act of 1973 has authorized appropriations for expenditure for public mass transportation on highways in rural areas in order to enhance access of rural area populations to employment, health care, retail centers, education, and public services; and

WHEREAS, Section 105 of the Federal-Aid Highway Amendments of 1974 Act requires that projects receiving federal financial assistance under Section 142(a) or (c) of Title 23, United States Code; Section 103(e) (4) of Title 23, United States Code; or the Federal-Aid Highway Act of 1973, shall be planned, designed, constructed, and operated to allow effective utilization by the elderly or handicapped persons; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Transportation, in cooperation with the Office on Aging and the Department of Rehabilitation, is hereby requested to consider rural public transportation demonstration projects, and to secure federal funds and matching state funds for such projects to allow effective utilization of public transportation facilities and services by the elderly and handicapped; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation, the Director of the

Office on Aging, and the Director of Rehabilitation.

RESOLUTION CHAPTER 93

Assembly Concurrent Resolution No. 77—Relative to the California State University and Colleges.

[Filed with Secretary of State August 26, 1975]

WHEREAS, Student body associations of the California State University and Colleges institute, fund, and operate child care programs on their respective campuses; and

WHEREAS, This service meets a critical and demonstrated need of students of the California State University and Colleges; and

WHEREAS, These student body associations have been unable to raise the substantial amount of funds necessary from federal, state, or private sources to establish permanent structures for child care programs; and

WHEREAS, The utilization of temporary or relocatable structures is necessary for the implementation of these programs; and

WHEREAS, The Trustees of the California State University and Colleges have established provisions which provide for a moratorium on the acquisition or leasing of trailers, relocatable structures, or other temporary facilities and have created a five-year capital improvement program which requires the phasing out of temporary structures; and

WHEREAS, The trustees have considered the problems faced by student body governments in retaining or utilizing relocatable or temporary facilities for child care centers and have been reluctant to make an exception for child care programs; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Trustees of the California State University and Colleges are requested to make an exception to their general policy with regard to the acquiring or leasing of trailers, relocatable structures, or other temporary facilities to allow student body associations to locate such structures on campuses of the California State University and Colleges for the purpose of operating child care centers; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Trustees of the California State University and Colleges and to the California State University and Colleges Student Presidents' Association.

RESOLUTION CHAPTER 94

Assembly Concurrent Resolution No. 45—Relative to health effects of air pollution.

[Filed with Secretary of State August 27, 1975]

WHEREAS, Medical experiments have been made of the lead content in the blood of children who live in high-density air pollution areas such as the foothill district of Los Angeles County; and

WHEREAS, Other medical studies have been made to determine the lead content in the blood of children living in beach communities of the same county where air pollution is less prevalent; and

WHEREAS, Early comparisons have indicated that children living in the foothill communities have a much higher lead content in their blood than those who live in the beach areas studied; and

WHEREAS, Reliable medical authorities have concluded that other toxic trace metals, cadmium and mercury in particular, are injurious to the general health of children as well as being a factor in the retardation of growth; and

WHEREAS, The continued presence of these trace metals in the body system of children could affect the learning process and cause serious physical problems; and

WHEREAS, Leading universities have concluded that the use of hair analysis is equal to or better than blood analysis as a determining factor for the presence of trace metals in the body system; and

WHEREAS, It has been established that toxic trace minerals can be removed from the system by increasing certain amino acids in the diet; and

WHEREAS, Controversy has arisen over the requirement that the oxides of nitrogen exhaust emission device be installed in 1966 through 1970 model year motor vehicles registered in any county, included in whole or in part, with the South Coast Air Basin; and

WHEREAS, Oxides of nitrogen emissions are considered to be more toxic than lead, and the health of everyone subject to pollutants in the South Coast Air Basin, especially those who reside in foothill communities, is of vital concern; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Department of Health is directed to compile a report summarizing, reviewing, and evaluating all significant available studies, technical reports, and data available on the effects on health of air pollution, including, but not limited to, the effects of the toxic trace metals (lead, cadmium, and mercury), compounds of sulfur, and oxides of nitrogen; and be it further

Resolved, That the State Department of Health is directed to submit this report to the Legislature not later than January 1, 1976. The state department is also directed to submit with the report recommendations for further studies, experiments, or analyses necessary to understand the effects on health of air pollution. The

recommendations shall take cognizance of the Legislature's concern that currently available information on the effects on health of air pollution is insufficient for consideration of legislation concerning the effects on health of air pollution; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Health.

RESOLUTION CHAPTER 95

Assembly Concurrent Resolution No. 101—Relative to leaves of absence of the Governor, Lieutenant Governor, Secretary of State, Attorney General, Controller, Treasurer, Superintendent of Public Instruction, Members of the Board of Equalization and the State Personnel Board, and Members of the Senate and Assembly.

[Filed with Secretary of State August 27, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That leaves of absence from the state for a longer period than 60 days during their terms of office are hereby granted to His Excellency Edmund G. Brown Jr., Governor of the State of California; to the Honorable Mervyn M. Dymally, Lieutenant Governor of the State of California; to March Fong Eu, Secretary of State; to Evelle J. Younger, Attorney General; to Kenneth Cory, Controller; to Jesse Unruh, Treasurer; to Wilson C. Riles, Superintendent of Public Instruction; to George R. Reilly, John W. Lynch, William M. Bennett, and Richard Nevins, Members of the Board of Equalization; to Robert M. Wald, William Gianelli, Nita Ashcraft, and Frank M. Woods, Members of the State Personnel Board; and to the following Members of the Senate and the Assembly:

Senators Alfred E. Alquist, Ruben S. Ayala, Peter H. Behr, Anthony C. Beilenson, Clare L. Berryhill, Dennis E. Carpenter, Randolph Collier, Lou Cusanovich, George Deukmejian, Ralph C. Dills, John F. Dunlap, Alex P. Garcia, Bill Greene, Arlen Gregorio, Donald L. Grunsky, Nate Holden, John W. Holmdahl, Joseph M. Kennick, Milton Marks, James R. Mills, George R. Moscone, John A. Nejedly, Nicholas C. Petris, Robert B. Presley, Omer L. Rains, H. L. Richardson, Alan Robbins, David A. Roberti, Albert S. Rodda, Newton R. Russell, Jack Schrade, Jerry Smith, Alfred H. Song, Robert S. Stevens, Walter W. Stiern, John Stull, Howard Way, James Q. Wedworth, James E. Whetmore, and George N. Zenovich; Assemblymen Richard Alatorre, Mike D. Antonovich, Dixon Arnett, Robert E. Badham, Tom Bane, Paul T. Bannai, Howard L. Berman, Robert G. Beverly, Daniel E. Boatwright, John V. Briggs, Willie L. Brown, Jr., Robert H. Burke, Victor Calvo, William Campbell, Paul B. Carpenter, Peter R. Chacon, Eugene A. Chappie, Fred W. Chel,

Larry Chimbole, Robert C. Cline, John L. E. Collier, William A. Craven, Mike Cullen, Pauline L. Davis, Wadie P. Deddeh, Julian C. Dixon, Gordon W. Duffy, Leona H. Egeland, Jack R. Fenton, John F. Foran, John R. Garamendi, Terry Goggin, Leroy F. Greene, Eugene T. Gualco, Gary K. Hart, Richard D. Hayden, Walter M. Ingalls, Lawrence Kapiloff, Barry Keene, Jim Keysor, John T. Knox, Bill Lancaster, Frank Lanterman, Jerry Lewis, Bill Lockyer, Ken MacDonald, Kenneth L. Maddy, Alister McAlister, Leo T. McCarthy, Robert M. McLennan, Bill McVittie, Ken Meade, John J. Miller, Ernest N. Mobley, Joseph B. Montoya, S. Floyd Mori, Frank Murphy, Jr., Bruce Nestande, Robert P. Nimmo, Louis J. Papan, Carmen Perino, Paul Priolo, Leon Ralph, Richard Robinson, Herschel Rosenthal, Alfred C. Siegler, Alan Sieroty, Tom Suitt, Vincent Thomas, William M. Thomas, John E. Thurman, Art Torres, Curtis R. Tucker, John Vasconcellos, Frank Vicencia, Charles Warren, Bob Wilson, Michael Wornum, and Edwin L. Z'berg.

The leaves of absence granted by this resolution are also granted to the successors of any of the above-named officers during their terms of office as such successors, or to any person filling a vacancy in any of the above-named offices.

RESOLUTION CHAPTER 96

Assembly Concurrent Resolution No. 114—Relative to the Solar Energy Research Institute.

[Filed with Secretary of State August 27, 1975]

WHEREAS, The Federal Energy Research and Development Administration will soon establish a Solar Energy Research Institute; and

WHEREAS, A number of states will be competing to be the site for this multimillion dollar research institute; and

WHEREAS, California's high quality and large numbers of technological research and development personnel, facilities, and industries make it well qualified to be the site; and

WHEREAS, The State Energy Resources Conservation and Development Commission has a mandate to assist the development of solar energy use in this state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members hereby urge the siting of the Solar Energy Research Institute in California; and be it further

Resolved, That the State Energy Resources Conservation and Development Commission is requested to develop and coordinate the statewide effort to obtain the Solar Energy Research Institute for California; and be it further

Resolved, That public and private research, educational, and

industrial institutions are requested to cooperate with the State Energy Resources Conservation and Development Commission in this effort.

RESOLUTION CHAPTER 97

Assembly Joint Resolution No. 14—Relative to postal rates.

[Filed with Secretary of State August 27, 1975]

WHEREAS, There has been a dramatic increase in postal rates during the past years; and

WHEREAS, The United States Postal Service contemplates a substantial cost increase in existing rates by the end of this year; and

WHEREAS, Such an increase would adversely affect large and small businesses in a time of economic crisis as well as individual citizens who are unemployed or receiving fixed income; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Board of Governors of the United States Postal Service, the Postal Rate Commissioner, and the Congress of the United States not to increase postal rates; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Chairman of the Postal Rate Commission, and to the Board of Governors of the United States Postal Service.

RESOLUTION CHAPTER 98

Assembly Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding subdivision (c) to Section 19 of Article IV thereof, relating to bingo.

[Filed with Secretary of State August 28, 1975]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1975–76 Regular Session, commencing on the second day of December 1974, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding subdivision (c) to Section 19 of Article IV thereof to read:

(c) Notwithstanding subdivision (a), the Legislature by statute may authorize cities and counties to provide for bingo games, but only for charitable purposes.

RESOLUTION CHAPTER 99

Assembly Constitutional Amendment No. 50—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 1 of Article XVI thereof, relating to state indebtedness.

[Filed with Secretary of State August 28, 1975.]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1975–76 Regular Session commencing on the second day of December, 1974, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 1 of Article XVI thereof, as follows:

SECTION 1. The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars ($300,000), except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within 50 years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one-fourth of the time of maturity of such debt or liability; but no such law shall take effect unless it has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created. Full publicity as to matters to be voted upon by the people is afforded by the setting out of the complete text of the proposed laws, together with the arguments for and against them, in the ballot pamphlet mailed to each elector preceding the election at which they are submitted, and the only requirement for publication of such

law shall be that it be set out at length in ballot pamphlets which the Secretary of State shall cause to be printed. The Legislature may, at any time after the approval of such law by the people, reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction, or it may repeal the law if no debt shall have been contracted in pursuance thereof

Notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with the State Allocation Board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending or coming before such board for the allocation and apportionment of funds to school districts for school construction purposes or purposes related thereto.

Notwithstanding any other provision of this constitution, or of any bond act to the contrary, if any general obligation bonds of the state heretofore or hereafter authorized by vote of the people have been offered for sale and not sold, the Legislature may raise the maximum rate of interest payable on all general obligation bonds authorized but not sold, whether or not such bonds have been offered for sale, by a statute passed by a two-thirds vote of all members elected to each house thereof.

The provisions of Senate Bill No. 763 of the 1969 Regular Session, which authorize an increase of the state general obligation bond maximum interest rate from 5 percent to an amount not in excess of 7 percent and eliminate the maximum rate of interest payable on notes given in anticipation of the sale of such bonds, are hereby ratified.

Notwithstanding any provisions of this section to the contrary, refunding bonds may be authorized by statute, two-thirds of the membership of each house of the Legislature concurring, for the purpose of refunding any outstanding indebtedness. No election shall be required to authorize the issuance of refunding bonds.

RESOLUTION CHAPTER 100

Assembly Concurrent Resolution No. 43—Relative to transportation planning.

[Filed with Secretary of State August 29, 1975]

WHEREAS, Planning for all modes of transportation in California is conducted by the Department of Transportation, in the Business and Transportation Agency, and by statutorily designated regional transportation agencies; and

WHEREAS, A statewide California Transportation Plan now being prepared by the Department of Transportation will be presented for

adoption to the State Transportation Board and will be reported to the Legislature in January 1976; and

WHEREAS, The California Coastal Zone Conservation Commission has adopted a transportation element as part of its preliminary California Coastal Zone Conservation Plan which will be presented to the Legislature in final form in January 1976; and

WHEREAS, Conflicts and inconsistencies exist between the State Transportation Plan now being prepared by the State Department of Transportation and the transportation element being considered for adoption by the California Coastal Zone Conservation Commission; and

WHEREAS, The Office of Planning and Research was created by the Legislature to assure orderly planning for specific functions such as water development, transportation, natural resources, economic development, and human resources by agencies of state government which exercise administrative responsibility for these functions; and

WHEREAS, Subdivision (c) of Section 65040 of the Government Code requires the Office of Planning and Research to regularly evaluate plans and programs of agencies of state government, identify conflicts or omissions, and recommend new state policies, programs, and actions required to resolve such conflicts or correct such omissions; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Office of Planning and Research is hereby requested to review the drafts of the State Transportation Plan of the Department of Transportation and regional transportation plans to be contained therein, and the California Coastal Zone Conservation Commission's draft transportation element for conflicts and inconsistencies; and be it further

Resolved, That the Office of Planning and Research is hereby requested to take appropriate measures to resolve any conflicts and inconsistencies between the drafts of the State Transportation Plan and the California Coastal Zone Conservation Commission Plan; and be it further

Resolved, That the Office of Planning and Research is hereby requested to submit a progress report to the Legislature on its findings and recommendations on what further action, if any, is necessary to resolve any unreconciled conflicts between the two plans; and be it further

Resolved, That the Office of Planning and Research submit its final report and findings to the Legislature no later than September 1, 1975; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor, the Office of Planning and Research, the Department of Transportation, and the California Coastal Zone Conservation Commission.

RESOLUTION CHAPTER 101

Assembly Concurrent Resolution No. 33—Relative to urgency statutes.

[Filed with Secretary of State September 2, 1975]

WHEREAS, Late in many sessions, the Legislature has enacted various laws affecting property taxation and property tax procedures, and many of such laws have contained urgency and retroactive clauses; and

WHEREAS, Such action has resulted in confusion in the orderly administration of the property tax laws by assessors throughout the state; and

WHEREAS, The State Association of County Assessors of California has expressed objections to the frequent use of urgency statutes to change substantive areas of the law of property taxation, since county assessors need 60 to 90 days lead time to adjust to such changes; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature will refrain to the extent possible from enacting urgency legislation which makes substantive changes in the law of property taxation and does not allow local tax officials sufficient time to prepare for such changes.

RESOLUTION CHAPTER 102

Assembly Concurrent Resolution No. 49—Relative to American River boundaries.

[Filed with Secretary of State September 2, 1975]

WHEREAS, The American River possesses extraordinary scenic, recreational, fishery and wildlife values; and

WHEREAS, The American River and its immediate environs should be preserved in its free-flowing state for the benefit of the people; and

WHEREAS, The boundaries and the extent of vested public rights along the American River should be clarified; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members request the State Lands Commission to undertake, as a priority area project, to determine the boundaries of state ownership and the extent of public trust easements vested in the people along the boundaries of the American River from the confluence with the Sacramento River to Nimbus Dam; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Lands Commission.

RESOLUTION CHAPTER 103

Assembly Concurrent Resolution No. 113—Relative to State Highway Route 33.

[Filed with Secretary of State September 2, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the portion of State Highway Route 33 located in the Mission Tesoro-Santa Nella business complex between State Highway Routes 5 and 152 is hereby officially designated and named Mission Tesoro Boulevard; and be it further

Resolved, That the Division of Highways of the Department of Transportation is hereby requested to erect and maintain appropriate signs on that portion of Route 33 showing the official designation and directional signs to Mission Tesoro Boulevard at the junctions of Route 33 with Routes 5 and 152; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 104

Assembly Concurrent Resolution No. 62—Relative to motor vehicle noise.

[Filed with Secretary of State September 4, 1975.]

WHEREAS, The Legislature finds and declares that highway traffic noise is a continuing threat to the health and welfare of people who reside near highways; and

WHEREAS, Highway traffic noise can be reduced only by reducing noise generated by individual motor vehicles traveling at highway speed; and

WHEREAS, Present methods of limiting noise generated by motor vehicles are based on low-speed full-throttle acceleration tests which assess noise emission dominated by engine and exhaust noise levels; and

WHEREAS, The current low-speed full-throttle maximum noise emission test method has outlived its utility in reducing automobile noise emission levels as it primarily considers only engine and exhaust noise levels which, on current models, are now sufficiently reduced that tire/roadway noise dominates at highway speeds; and

WHEREAS, Full-throttle acceleration is not a typical passenger car driving mode and in actuality accounts for less than 2 percent of actual operation; and

WHEREAS, There exists a need to develop motor vehicle noise emission test procedures which will measure motor vehicle noise levels for both maximum acceleration and highway speed conditions

in order to protect the public health and welfare; and

WHEREAS, It is the intent of the Legislature to continuously review the progress of motor vehicle manufacturers in reducing motor vehicle noise, and to require the reduction of motor vehicle noise to the fullest extent feasible; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of the California Highway Patrol, the Department of Transportation, and the State Department of Health, Office of Noise Control, are requested to develop a cost-effective method of measuring overall motor vehicle noise emission levels under roadway conditions, to seek the cooperation and assistance of automobile manufacturers in developing such measurement, and to report their findings and recommendations to the Legislature not later than March 1, 1976; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the Commissioner of the California Highway Patrol and the Directors of Transportation and Health.

RESOLUTION CHAPTER 105

Assembly Joint Resolution No. 19—Relative to health benefit payments.

[Filed with Secretary of State September 4, 1975]

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation providing for health benefit payments for the unemployed financed by general tax funds; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 106

Senate Joint Resolution No. 14—Relative to veterans' cemeteries.

[Filed with Secretary of State September 5, 1975]

WHEREAS, Currently there is a lack of available space in veterans' cemeteries which are located in the State of California; and

WHEREAS, A great hardship exists on veterans and their families in that the nearest open veterans' cemetery is in the State of Oregon

and in order for relatives to visit this cemetery it requires a very long journey which is a hardship to many; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Veterans Administration to establish a veterans' cemetery in California; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the office of the Administrator of Veterans Affairs, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 107

Senate Joint Resolution No. 27—Relative to requesting issuance of a postage stamp commemorating the 30th anniversary of the United States Navy Flight Demonstration Squadron.

[Filed with Secretary of State September 5, 1975]

WHEREAS, The United States Navy Flight Demonstration Squadron was initiated as a Navy team in Jacksonville, Florida, giving its first public air show June 15, 1946; and

WHEREAS, The Navy's "Blue Angels" is a team dedicated to the uplifting of the sights of our people, accomplished only by many hours of tedious practice and teamwork; and

WHEREAS, A purpose of this team is to inspire American children in the value of setting goals and working unswervingly in their chosen field until these goals are attained; and

WHEREAS, The "Blue Angels" are also a valuable recruitment tool to the United States Navy; and

WHEREAS, These precision aviators stir patriotism and pride in spectators, who, over the years, number more than 130,000,000 in the United States, Canada, South and Central America, the Philippines, Asia, and Europe; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That a stamp commemorating the 30th anniversary of this worthy activity be issued in the realization that it is most fitting and proper to do so; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Postal Services Citizens Advisory Committee.

RESOLUTION CHAPTER 108

Assembly Constitutional Amendment No. 41—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 8 to Article XXVI, relating to motor vehicle taxation and revenue.

[Filed with Secretary of State September 8, 1975]

Resolved by the Assembly, the Senate concurring, That the Legislature of the State of California at its 1975–76 Regular Session commencing on the second day of December, 1974, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding Section 8 to Article XXVI thereof, to read:

SEC. 8. Notwithstanding Sections 1 and 2 of this article, any real property acquired by the expenditure of the designated tax revenues by an entity other than the State for the purposes authorized in those sections, but no longer required for such purposes, may be used for local public park and recreational purposes.

RESOLUTION CHAPTER 109

Assembly Concurrent Resolution No. 78—Relative to the Public Utilities Commission.

[Filed with Secretary of State September 8, 1975]

WHEREAS, The Public Utilities Commission has required electrical public utilities under its jurisdiction to commence a program of undergrounding overhead distribution facilities in urban areas after consultation with and in cooperation with local governmental officials; and

WHEREAS, This program does not presently include the undergrounding of transmission lines, and in addition, property owners are required to pay for the undergrounding of their service connection facilities at the time of the undergrounding of the distribution facilities, and problems of hardship and inequities have arisen in specific cases; and

WHEREAS, It is the intent of the Legislature that this important program of undergrounding of electrical facilities proceed expeditiously for the benefit of the people of this state; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Public Utilities Commission is requested to expand its program for the undergrounding of transmission facilities and to include the undergrounding of service

connections in special cases of hardship or inequity; and be it further

Resolved, That a copy of this resolution be transmitted to the Public Utilities Commission.

RESOLUTION CHAPTER 110

Senate Concurrent Resolution No. 49—Relative to a Wilmington state highway directional sign.

[Filed with Secretary of State September 8, 1975]

WHEREAS, Wilmington is a distinct community of approximately 40,000 people; and

WHEREAS, It is an integral part of the daily operation of the Port of Los Angeles; and

WHEREAS, It is a major coordinating point of transportation in and out of the Port of Los Angeles; and

WHEREAS, Eighteen thousand factories and 200,000 jobs depend upon materials flowing through the Port of Los Angeles, much of the material being handled by shippers and warehouses located in Wilmington; and

WHEREAS, Because of the importance of the Wilmington community, there is a need to identify the exits on State Highway Route 11 to Wilmington; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Transportation is hereby requested to erect a directional sign for southbound traffic on State Highway Route 11 (the Harbor Freeway) just prior to the State Highway Route 1 (the Pacific Coast Highway) exit, to read as follows:

WILMINGTON
NEXT 3 EXITS

; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 111

Senate Concurrent Resolution No. 58—Relative to State Highway Route 49 through the City of Auburn.

[Filed with Secretary of State September 8, 1975.]

WHEREAS, The Department of Transportation is reconstructing State Highway Route 49 through the City of Auburn; and

WHEREAS, No provision has been made in such reconstruction for landscaping of this project; and

WHEREAS, While it is recognized that there is a shortage of funds for the state highway construction program, the landscaping of this new highway is of vital importance; and

WHEREAS, It would appear that the irrigation system for such landscaping should be installed at the time of construction; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Transportation is requested to include, in its present construction project of State Highway Route 49 through the City of Auburn, the installation of an irrigation system for the landscaping of the project; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

RESOLUTION CHAPTER 112

Senate Concurrent Resolution No. 63—Relative to memorializing Ivy Baker Priest.

[Filed with Secretary of State September 8, 1975.]

WHEREAS, The passing of a great and inspirational person, Ivy Baker Priest, who carried the qualities of high morals, integrity, honesty, and truthfulness into all her professional and personal endeavors, brought great sadness to the Members of the California State Legislature and a deep sense of loss to the people she served as California's first woman constitutional officer; and

WHEREAS, This great lady held the respect and esteem of citizens from one side of this nation to the other, and those who knew her and were associated with her unhesitatingly testify to her friendly good cheer, eternal optimism, and dedication to duty; and

WHEREAS, During most of her 69 years, Republican politics was one of her life's passions, and she rose from her initial contribution as a Republican Party precinct worker in Bingham, Utah, where she babysat and ran errands for Republican voters at election time, to the high leadership position of Republican National Committeewoman from Utah from 1944 to 1952; and

WHEREAS, In 1952, President Dwight Eisenhower appointed her United States Treasurer, and she served her country in that position with great distinction for eight years; and

WHEREAS, After leaving Washington, she returned to California and, in 1966, won the election as California's 25th State Treasurer, with the distinction of being the first woman ever elected to hold a

state constitutional office, and with her reelection in 1970, continued to serve the citizens of the State of California with an assiduous devotion to the responsible discharge of her duties; and

WHEREAS, An advocate of reduced government spending, Mrs. Priest took pride in her successful effort to establish the State Treasurer's Office in Sacramento as the sole seller of California bonds; and she headed the Pooled Money Investment Board, which, during her tenure, significantly increased the earnings of the state's investments; and

WHEREAS, In her many years of public service, she was active in many community affairs, and received many honors, including several honorary doctorate degrees and nomination as one of the 20 most outstanding women of the century by the Women's Newspaper Editors and Publishers Association; and

WHEREAS, Mrs. Priest is survived by two daughters, Patricia Priest Jensen and Mrs. John Valenzuela of Long Beach; and by six brothers and sisters in Salt Lake City, Utah; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members extend their deepest sympathy upon the passing of a grand lady and patriotic American, Ivy Baker Priest, and, by this resolution, memorialize her illustrious record of dedicated and highly effective service on behalf of the Republican Party, and the citizens of the State of California and the United States of America; and be it further

Resolved, That suitably prepared copies of this resolution be transmitted to Patricia Priest Jensen and to Mrs. John Valenzuela.

RESOLUTION CHAPTER 113

Senate Joint Resolution No. 10—Relative to social security.

[Filed with Secretary of State September 8, 1975]

WHEREAS, There is an urgent need to assist retired people on fixed incomes in maintaining themselves in the midst of an atmosphere of rising inflation; and

WHEREAS, This rising inflation in the nation's economy has placed the cost of food and other necessities of life beyond the reach of the nation's retired persons; and

WHEREAS, It is essential that those aged and retired persons who have previously contributed so much to this nation be remembered at a time when circumstances affecting the economy make their present survival in a dignified manner extremely arduous; and

WHEREAS, An adjustment of the present federal provisions governing the maximum amount of earnings which social security recipients may realize without the loss of benefits is most appropriate in view of present economic conditions; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to amend federal law to permit social security recipients to earn $7,500 per year without any loss of social security benefits; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 114

Senate Concurrent Resolution No. 64—Relative to reduction of the state highway program.

[Filed with Secretary of State September 8, 1975]

WHEREAS, The Department of Transportation, predicting a major loss of future revenue, is preparing a massive cutback in highway construction and maintenance programs starting this fiscal year; and

WHEREAS, The consequence of the proposed cutback will be the disintegration of existing state highways at a time when modern, safe highways are the single most important element in a balanced nationwide transportation system; and

WHEREAS, Abandonment of partially completed projects would be a colossal waste of energy, resources, and taxpayers' money, and would have a potentially detrimental impact on the environment; and

WHEREAS, Such a cutback would cause the highway accident rate to soar due to unsafe road conditions, causing needless loss of lives and needless injuries to persons and damage to property; and

WHEREAS, The department's ill-conceived program reduction would be the first step toward disintegration of the state's world-acclaimed freeway system, and would seriously handicap development of a new, balanced transportation system to meet present and future transportation needs; and

WHEREAS, The cutback is not based on a diminishing public need, in view of the fact the department has identified more than $8 billion in highway deficiencies serious enough to merit correction if funding is available; and

WHEREAS, The planned cutback includes the needless layoff of up to 3,300 employees who represent a wide range of specialized and irreplaceable skills; and

WHEREAS, Such a layoff would hit hardest upon the 3,060 minority group members working on highway projects, because of

their low seniority due to affirmative hiring programs being instituted only in recent years; and

WHEREAS, The "ripple effect" of the cutback would compound the grim employment picture for workers in highway construction firms and in the multitude of supply and support firms, so that up to 20,000 jobs could be lost statewide; and

WHEREAS, This wholesale layoff would add significantly to the state's dismal unemployment level of 10 percent and would have a serious financial impact on the already shaky unemployment insurance fund; and

WHEREAS, Such a massive loss of jobs and salaries would further depress the state's economy by eliminating the tens of millions of dollars these employees earn and spend annually; and

WHEREAS, The economic and social implications of such a cutback would be extremely serious in a prosperous economy and would be disastrous in the present ailing economy; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Department of Transportation is hereby requested to postpone any reduction of the state highway program until the Legislature has completed a study of the problem and has had an opportunity to act; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Governor, the Secretary of the Business and Transportation Agency, and the Director of Transportation.

RESOLUTION CHAPTER 115

Assembly Concurrent Resolution No. 65—Relative to a study of depletion allowances.

[Filed with Secretary of State September 10, 1975]

WHEREAS, The depletion allowances authorized for oil and gas wells and various mines under the Personal Income Tax Law and the Bank and Corporation Tax Law are in need of a comprehensive study in order that the Legislature will have sufficient information available on which to base informed decisions regarding such allowances; and

WHEREAS, Such a study should include, but not be limited to, information on all of the following:

1. A history of the depletion allowance for each industry and the justification for the percentage of depletion assigned to such industry; and

2. A comparison of the various percentages of depletion assigned to the different industries and the justification for such differences; and

3. A comparison of the depletion allowances authorized under California's law with the allowances authorized by all other states and the federal government; and

4. An estimate of the fiscal impact on state revenues a repeal of each of the depletion allowances would have; and

5. An estimate of the effect of such a repeal on the conduct of business by each such industry; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Franchise Tax Board is directed to conduct a study of the subject matter of this resolution and to report its findings and recommendations to the Legislature by not later than March 15, 1976; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Franchise Tax Board.

RESOLUTION CHAPTER 116

Senate Constitutional Amendment No. 12—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by repealing subdivision (e) of, and by amending subdivision (g) of, Section 28 of Article XIII thereof, relating to taxation.

[Filed with Secretary of State September 11, 1975]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1975–76 Regular Session commencing on the second day of December, 1974, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended as follows:

First—That subdivision (e) of Section 28 of Article XIII is repealed.

Second—That subdivision (g) of Section 28 of Article XIII is amended to read:

(g) Every insurer transacting the business of ocean marine insurance in this state shall annually pay to the state a tax measured by that proportion of the underwriting profit of such insurer from such insurance written in the United States, which the gross premiums of the insurer from such insurance written in this state bear to the gross premiums of the insurer from such insurance written within the United States, at the rate of 5 per centum, which tax shall be in lieu of all other taxes and licenses, state, county and municipal, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance written by it. The Legislature shall define the terms "ocean marine insurance" and "underwriting profit," and shall provide for the assessment, levy, collection and

enforcement of the ocean marine tax.

RESOLUTION CHAPTER 117

Senate Concurrent Resolution No. 60—Relative to the Joint Committee on Job Development.

[Filed with Secretary of State September 11, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Joint Committee on Job Development is hereby created with the following composition, powers, and duties:

(1) The joint committee shall consist of three Members of the Senate, appointed by the Senate Committee on Rules, and three Members of the Assembly appointed by the Speaker of the Assembly. Vacancies occurring in the membership during the existence of the joint committee shall be filled by the appointing power.

(2) The joint committee is authorized to perform research and analysis, hold hearings, publish reports, and sponsor legislation relative to job development for the people of the State of California.

(3) The joint committee is authorized to create an advisory committee, with appointments and duties to be established by the chairman of the joint committee.

(4) The joint committee shall begin its work immediately upon passage of this resolution, and is authorized to act during the 1975–76 Regular Session of the Legislature, or until unemployment in the State of California has been reduced to 4 percent.

(5) The joint committee shall report its findings and recommendations to the Legislature no later than November 30, 1976.

(6) The Joint Rules Committee may make funds available from the Contingent Funds of the Assembly and Senate for the expenses of the joint committee and its members and for any charges, expenses, or claims it may incur under this resolution; provided that, in accordance with Joint Rule 36.8, any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 118

Senate Joint Resolution No. 26—Relative to the Coleman National Fish Hatchery.

[Filed with Secretary of State September 11, 1975.]

WHEREAS, The United States Bureau of Reclamation constructed the Coleman National Fish Hatchery in 1942 to mitigate the loss of salmon spawning grounds inundated by Shasta Dam, a unit of the Central Valley Project; and

WHEREAS, Expansion of the Central Valley Project and development of hydroelectric facilities under federal license has further impacted the natural production of both salmon and trout in northern California regions; and

WHEREAS, Proposals for expanding the production capability of Coleman Hatchery have been evaluated and found to be both feasible and necessary; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to lend encouragement and provide funding for the expansion of facilities at the Coleman National Fish Hatchery; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Director of the Bureau of Sport Fisheries and Wildlife, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 119

Senate Joint Resolution No. 30—Relative to the Highway Trust Fund.

[Filed with Secretary of State September 11, 1975.]

WHEREAS, H.R. 3786 was recently enacted as Public Law 94-30; and

WHEREAS, The provisions of this law permit deferral of state matching funds for federal-aid highway projects until January 1, 1977; and

WHEREAS, California has made use of this provision to advance construction projects as requested by the Federal Highway Administration; and

WHEREAS, It is estimated that approximately $25 million will be needed for payment to the federal government by January 1, 1977; and

WHEREAS, California is a donor state and is now receiving only approximately 65 percent of the revenue it contributes to the Highway Trust Fund; and

WHEREAS, Such a low return is considered neither fair nor equitable; now, therefore, be it

Resolved by the Senate and Assembly of the State of California,

jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend Public Law 94-30 (H.R. 3786) to exempt from the matching requirement of that law any state whose allocation from the Highway Trust Fund is less than 85 percent of the amount it contributes to that fund; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Transportation, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 120

Assembly Concurrent Resolution No. 12—Relative to student housing at San Francisco State University.

[Filed with Secretary of State September 11, 1975]

WHEREAS, Students attending San Francisco State University are presently experiencing a serious shortage of adequate low-cost housing; and

WHEREAS, San Francisco State University is located in a densely populated high- to medium-cost housing section of the City of San Francisco, with no suitable low-cost housing readily available to students; and

WHEREAS, The lack of adequate housing places severe financial and educational handicaps on students attending the university; and

WHEREAS, No feasible alternatives are currently being considered by the California State University and Colleges to alleviate the immediate student housing shortage; and

WHEREAS, Low-cost housing for family students which now exists on the San Francisco State University campus is capable of serving the needs of 82 student families; and

WHEREAS, Plans now exist to demolish these housing structures and to utilize the land for construction of an athletic field; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Trustees of the California State University and Colleges are requested to retain the family student housing at San Francisco State University until such time as an equivalent number of low-cost housing units are made available for student occupancy; and be it further

Resolved, That a copy of this resolution be sent to the Trustees of the California State University and Colleges.

RESOLUTION CHAPTER 121

Assembly Concurrent Resolution No. 37—Relative to the Office of Criminal Justice Planning.

[Filed with Secretary of State September 11, 1975.]

WHEREAS, Total criminal justice expenditures in this state may amount to approximately a billion dollars ($1,000,000,000) a year; and

WHEREAS, Neither such expenditures nor revenue sources throughout the state are accurately, consistently, and comprehensively reported and analyzed; and

WHEREAS, Each agency or jurisdiction presently describes its revenues and expenditures in formats not comparable to those of other agencies or jurisdictions that may be engaging in the same activities or maintaining programs for identical purposes; and

WHEREAS, The lack of comprehensive information may result in inefficiencies or inequities in the application of federal, state, and local funds to general problems of public safety and the quality of justice; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Office of Criminal Justice Planning is requested to commission and fund a comprehensive study to:

(a) Determine the amount of money annually expended by the Attorney General and each court, district attorney, public defender, state or local corrections agency, county sheriff's department, city police agency, district authorized by law to maintain a police department, including, but not limited to, a determination of the amounts expended for personnel, equipment and facilities, and major activities or programs;

(b) Determine the sources of the revenues that support these expenditures; and

(c) Establish an improved system for the regular reporting and analysis of such expenditures and revenues; and be it further

Resolved, That the League of California Cities, the County Supervisors Association of California, and all law enforcement agencies be requested to cooperate and participate in the work of this study; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Office of Criminal Justice Planning.

RESOLUTION CHAPTER 122

Assembly Concurrent Resolution No. 76—Relative to infant hearing defects.

[Filed with Secretary of State September 11, 1975.]

WHEREAS, Infants whose hearing defects are not detected within the first few months of life miss out on valuable sensory stimuli; and

WHEREAS, Children whose hearing defects are not detected at an early age fall behind their peers in educational development and usually have to be placed in remedial classes or state-supported schools; and

WHEREAS, Hearing defects can be detected at birth thus allowing for minimal loss of outside auditory input when hearing aids are utilized; and

WHEREAS, The Legislature of the State of California finds that it is feasible to test infants for hearing defects at birth; and

WHEREAS, It is the policy of the Legislature of the State of California that all infants have the right to maximize their potential as human beings by not being doomed at an early age to a life of isolation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Department of Health is directed to conduct a study of the feasibility and costs of various programs for testing newborns for hearing defects, and to develop a plan delineating what additional study must take place before a statewide plan can be implemented and a timetable for the further study and steps to be taken to implement the plan; and be it further

Resolved, That copies of this study be transmitted to the Governor, the Speaker of the Assembly, the Chairman of the Senate Rules Committee no later than July 1, 1976; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Health.

RESOLUTION CHAPTER 123

Assembly Concurrent Resolution No. 103—Relative to the practice of cosmetology.

[Filed with Secretary of State September 11, 1975.]

WHEREAS, The California State Department of Consumer Affairs has caused some individuals, who have been for years providing some simple beauty services, to be cited for violations of the Business and Professions Code; and

WHEREAS, Instructing such tradespeople to cease performing their services to the public seriously damages the economic well-being of those tradespeople and their dependents at a time of high unemployment and at the same time deprives their satisfied customers of service they have enjoyed; and

WHEREAS, The Fourth District Court of Appeals, in the decision of Whitcomb v. Emerson, has held that in the absence of a limited

license to practice specialized cosmetology services, it is unreasonable to require the practitioner of a limited specialty to take the full 1,600-hour cosmetology training course and successfully pass an examination on the entire field of cosmetology, including hair, scalp, and nail care; and

WHEREAS, There is legislation pending before the Legislature that will resolve the question as to whether such simple services shall be exempted from licensing or become regulated and licensed; and

WHEREAS, The intensity of interest in the problem is exemplified by the introduction of AB 2386 by Assemblyman Tom Bane, which is coauthored by Assemblyman Leon Ralph, Chairman of the Assembly Rules Committee, Assemblyman Julian Dixon, Majority Caucus Chairman, Assemblyman Alister McAlister, Chairman of the Assembly Finance, Insurance, and Commerce Committee, Assemblyman Louis Papan, Chairman of the Licensing Subcommittee, Assemblyman Richard Alatorre, Assemblyman Willie Brown, Senator Jack Schrade, Chairman of the Senate Business and Professions Committee, and Senator Bill Greene, to provide for limited licensing of those persons engaged in the practice of makeup and eyelash application and leg waxing; and

WHEREAS, The State Board of Cosmetology, which is under the Department of Consumer Affairs, is actively supporting the above-mentioned special licensing legislation; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the enforcement division of the Department of Consumer Affairs cease its activities which are putting the above-mentioned people out of work until the Legislature resolves the question through the legislation pending before it; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Department of Consumer Affairs, the Board of Cosmetology, and to investigators of the department in the field.

RESOLUTION CHAPTER 124

Senate Joint Resolution No. 12—Relative to federal-guaranteed or insured mortgages.

[Filed with Secretary of State September 11, 1975]

WHEREAS, At various times the 10-percent usury limitation in the State of California has and may again severely limit access to national and international secondary money markets by originators and sellers of home loans; and

WHEREAS, The constitutional usury limitation in California precludes that segment of the California lending industry most

interested and able to originate home loans for secondary markets from providing this service in times of high interest rates; and

WHEREAS, The cyclical nature of the homebuilding industry, which is so important to the California economy, is often adversely affected by lack of available financing through FHA/VA, Federal National Mortgage Association, Government National Mortgage Association and the Federal Home Loan Bank at precisely the time when jobs are most needed; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Congress of the United States is requested to enact legislation which will exempt from the usury limitation in the State of California all mortgages, or deeds of trust which are insured or guaranteed by the federal government, or a mortgage intended for delivery to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Bank or any other state or federal instrumentality; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 125

Assembly Concurrent Resolution No. 79—Relative to a study of waste disposal sites for environmentally dangerous substances.

[Filed with Secretary of State September 12, 1975]

WHEREAS, The Legislature finds that there currently exists a shortage and maldistribution of waste disposal sites suitable for disposal of environmentally dangerous substances, known as class I sites; and

WHEREAS, The shortage of class I sites creates serious environmental problems and presents severe hardships on local governmental agencies and industries which generate these wastes; and

WHEREAS, The need for such sites will increase further as a result of more stringent water and air quality standards requiring land disposal of such residues; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members hereby request the State Solid Waste Management Board conduct an investigation of the class I site problem, in conjunction with the State Water Resources Control Board, the Department of Food and Agriculture, and the State Department of Health; and be it further

Resolved, That the State Solid Waste Management Board report its findings and recommendations on this matter to the Legislature not later than July 1, 1976; and be it further

Resolved, That the board's investigation shall include, but is not limited to, the following elements:

(a) Determination of the quantity, type and location of class I wastes now produced within California, including a projection of those wastes that will be produced in the future due to new stringent air and wastewater control requirements.

(b) Evaluation of the role of the state in establishing new class I sites. Such evaluation shall include (1) whether the state should assist in the location and evaluation of potential sites, (2) if these sites should be purchased and owned by the state, and (3) the manner by which the state should control or regulate the operation of the waste disposal procedures.

(c) Analysis of methods available to monitor the amounts of wastes being generated and correlate those amounts with the records of waste being disposed of at class I sites.

(d) Evaluation of the state's role in assuring that long-term maintenance will exist for the class I disposal sites both during site operation and after site closure.

(e) Analysis of the sources and levels of revenues necessary to finance the above programs; and be it further

Resolved, That during this investigation the board hold hearings, both in northern and southern California, in order to obtain facts on disposal site needs, the quantity and types of wastes requiring disposal, and in order to receive recommendations from local governments and private industry regarding the state's role in resolving this problem. In developing its recommendations the board shall consider the results of the County Solid Waste Management Plans developed pursuant to Section 66780 of the Government Code. The board shall consult with local agencies during the conduct of this study in order to coordinate the collection of information and development of conclusions to the greatest degree possible; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Solid Waste Management Board.

RESOLUTION CHAPTER 126

Senate Constitutional Amendment No. 1—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 27 and subdivision (i) of Section 28 of Article XIII, relating to taxation.

[Filed with Secretary of State September 16, 1975]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1975–76 Regular Session commencing on the second day of December, 1974, two-thirds of the members elected to each of both houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended as follows:

First—That Section 27 of Article XIII is amended to read:

SEC. 27. The Legislature, a majority of the membership of each house concurring, may tax corporations, including State and national banks, and their franchises by any method not prohibited by this Constitution or the Constitution or laws of the United States. Unless otherwise provided by the Legislature, the tax on State and national banks shall be according to or measured by their net income and shall be in lieu of all other taxes and license fees upon banks or their shares, except taxes upon real property and vehicle registration and license fees.

Second—That subdivision (i) of Section 28 of Article XIII is amended to read:

(i) The Legislature, a majority of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers.

RESOLUTION CHAPTER 127

Assembly Concurrent Resolution No. 87—Relative to Medi-Cal.

[Filed with Secretary of State September 18, 1975]

WHEREAS, The current basis for determining rates of payments to skilled nursing facilities and intermediate care facilities is inadequate because the current method is based on historical costs and fails to consider the actual needs of patients, fails to consider the need for improving the levels and types of care provided, fails to provide funds for needed in-service training, and fails to deal with the general inflationary costs of health care delivery; and

WHEREAS, The Legislature, therefore, finds and declares that new methods for establishing a reimbursement rate for skilled nursing and intermediate care facilities are necessary; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the State Director of Health is hereby requested to review the existing standards for setting the reimbursement rates for skilled nursing and intermediate care services. Such review shall also evaluate an alternative rate structure which shall be based on a random sampling of individual patient care profiles. Patient care profiles shall be developed which shall be utilized to establish the overall patient care requirements for each

facility. The patient care profiles shall recognize the patients' needs and shall include but not be limited to the following items:

(1) Skilled nursing procedures
(2) Skilled observations
(3) Aids to daily living
(a) Bathing
(b) Dressing
(c) Walking
(d) Eating
(4) Incontinence care
(5) Bowel and bladder training
(6) Decubitis care
(7) Requirements for restorative care

Based upon the patient care profile requirements the cost of providing nursing and related patient services of a facility shall be determined.

The purpose of the patient care profile is to establish the budgeted cost of patient service needs in the facility.

The patient care profile shall be completed by the staff of the skilled nursing or intermediate care facility and shall be verified by representatives of the Department of Health; and be it further

Resolved, That the State Director of Health is requested to report to the Legislature by March 1, 1976, the findings concerning his review conducted pursuant to this measure; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Director of Health.

RESOLUTION CHAPTER 128

Assembly Concurrent Resolution No. 117—Relative to the Joint Committee for the Revision of the Elections Code.

[Filed with Secretary of State September 18, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Joint Committee for the Revision of the Elections Code created by Assembly Concurrent Resolution No. 93 (Resolution Chapter 129) of the 1971 Regular Session, and the advisory committee for the revision of the Elections Code created pursuant to Senate Concurrent Resolution No. 16 (Resolution Chapter 180) of the 1971 Regular Session, both of which were continued in existence until December 31, 1975, by Senate Concurrent Resolution No. 141 (Resolution Chapter 107) of the 1973–74 Regular Session, are hereby continued in existence until December 31, 1976, by which date the joint committee shall submit its findings and recommendations to the Legislature, and each such committee shall continue to have the powers and duties granted and

imposed by the resolution by which it was created; and be it further

Resolved, That the Joint Rules Committee may make funds available from the Contingent Funds of the Assembly and Senate for the purposes of this resolution and the Joint Committee for the Revision of the Elections Code may expend such funds for the expenses of the committee and the advisory committee for the revision of the Elections Code and their members and for any charges, expenses, or claims they may incur under this resolution; provided, that, in accordance with Joint Rule 36.8, any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

RESOLUTION CHAPTER 129

Assembly Concurrent Resolution No. 124—Relative to memorializing the Honorable Edwin L. Z'berg.

[Filed with Secretary of State September 18, 1975]

WHEREAS, It was with the most profound sorrow and deep sense of loss that the members received word of the passing of one of their most distinguished and able colleagues, and respected public servant and member of the California State Bar, the Honorable Edwin L. Z'berg, Assemblyman of the 4th Assembly District; and

WHEREAS, Assemblyman Z'berg, who lived in the area of the 4th Assembly District all his life, except when in the service of his country in the armed forces, and while attending college, and who represented his fellow citizens of the district within the California State Legislature for 17 years, passed away in Sacramento on August 26, 1975, at the age of 49; and

WHEREAS, He attended Sacramento Senior High School, where he was active in athletics and student politics and graduated as valedictorian of his class; received a bachelor of arts degree from the University of California at Los Angeles; and received the President's Scholarship to the University of San Francisco School of Law, from which he graduated summa cum laude with the highest scholastic record in his class; and

WHEREAS, Assemblyman Z'berg engaged in the private practice of law in Sacramento following service as a deputy attorney general, and was elected, in November 1958, to the California State Assembly, where, during the tenure of his illustrious service, he compiled an impressive record as the author of over 900 bills in such diverse fields as the environment, antitrust regulation, the judicial process, and civil service; and

WHEREAS, As chairman of the influential Assembly Resources and Land Use Committee for 10 of the past 12 years, he displayed

courageous and farsighted leadership in the increasing struggle against pollution and despoilation of our environment, sponsoring landmark legislation leading to profound changes in the direction of environmental management in California; and

WHEREAS, His diverse environmental record includes legislation creating the Lake Tahoe Regional Agency, regulating forest practices and watershed management, controlling billboards, establishing state solid waste management and resources recovery policy, and consolidating and broadening state pollution control and land use planning; and

WHEREAS, Assemblyman Z'berg also displayed an assiduous devotion to the responsible discharge of his duties as a member of the Public Employees and Retirement Committee, the Ways and Means Committee, the Select Committee on Coastal Zone Resources, and the Western States Forest Industries Task Force; as the Assembly representative on the California Conference of Commissioners on Uniform State Laws; and as a member of the Joint Committee on Health Sciences Education; and

WHEREAS, As a member and active participant in numerous civic, community, fraternal, recreational, and professional organizations, he received repeated recognition for his spirited involvement, including the "Man of the Year" award in 1969 from the Mother Lode Chapter of the Sierra Club, the Order of Eagles "Civic Service Award" in 1971, and the California Trial Lawyer's "Man of the Year" award in 1971; and

WHEREAS, Assemblyman Z'berg is survived by his wife, the former Edna Merle Coz; his four children, Vicki, John, Cynthia, and Susan; a grandson, Matthew; and his sister, Lorraine Johnson of Rumsey; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the members express their deepest sympathies at the passing of this beloved and outstanding citizen to his widow, Edna Merle, and his children, Vicki, John, Cynthia, and Susan, and, by this resolution, memorialize his lifetime of accomplishments on behalf of his family, friends, and countrymen; and be it further

Resolved, That the Chief Clerk of the Assembly transmit suitably prepared copies of this resolution to Mrs. Edna Merle Z'berg; to each of her four children, Vicki, John, Cynthia, and Susan; and to Mrs. Lorraine Johnson.

RESOLUTION CHAPTER 130

Assembly Concurrent Resolution No. 129—Relative to compensation and benefits of public officers.

[Filed with Secretary of State September 18, 1975]

WHEREAS, There is need for an independent evaluation of compensation and benefits of public officers, including the appropriate salary base of the Governor, the Lieutenant Governor, the Attorney General, the Controller, the State Treasurer, the Secretary of State, the Superintendent of Public Instruction, and Members of the judiciary and the Legislature; and

WHEREAS, The evaluation should include consideration of the adequacy of the present retirement systems and recommendation for any improvements therein; also, consideration should be given as to the need for inclusion of cost-of-living increases in salary and pension benefits; and

WHEREAS, A study should be undertaken to determine the adequacy of reimbursement for travel and living expenses of legislators, including consideration of the payment of travel and per diem expenses while away from Sacramento during session and while away from their districts during a recess, as well as consideration of other alternatives; now, therefore, be it

Resolved by the Assembly of the State of California, the Senate thereof concurring:

1. That there is created as an advisory committee to the Legislature the Public Officers Compensation Commission. The commission shall consist of 15 members. The Chairman of the Commission on California State Government Organization and Economy shall be an ex officio voting member and shall serve as the chairman of the commission. Other ex officio voting members shall be the presidents or their designees of the California Chamber of Commerce, the State Federation of Labor, the California Farm Bureau, the State Bar of California, the League of Women Voters, the California Broadcasters Association and the California Newspaper Publishers Association. The remaining seven members shall be appointed by the Governor and shall be broadly representative of the general public, but at least one of the appointees shall be a retired California State Senator, one other shall be a retired California Member of the Assembly, and another shall be a retired California judge.

2. The commission shall appoint an executive secretary and may employ staff personnel necessary to carry out its duties and responsibilities. The staff of the State Personnel Board shall provide assistance to the commission as required by the commission, and the board shall be reimbursed by the commission for such assistance.

3. Members of the commission shall be allowed actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

4. The commission is directed to study matters relating to compensation and benefits of the Governor, the Lieutenant Governor, the Attorney General, the Controller, the State Treasurer, the Secretary of State, the Superintendent of Public Instruction, and Members of the judiciary and the Legislature, and to report thereon to the Legislature, and to draft and submit to the Legislature a

proposed constitutional amendment implementing the commission's findings and recommendations.

5. No study nor recommendations shall be made for revision of the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code.

6. The commission's report and the proposed constitutional amendment shall be submitted on or before March 1, 1976. As of March 2, 1976, the commission is abolished.

7. The Legislature shall consider the recommendations of the commission and shall vote upon the proposed constitutional amendment so that the measure may be submitted to the people at the November 1976 general election.

8. The sum of fifty thousand dollars ($50,000) is allocated from the Contingent Funds of the Assembly and Senate for expenditure by the commission. Such money may be expended only upon certification to the Controller by the chairman of the commission. Unexpended money, upon expiration of the commission, shall revert to the Contingent Funds of the Assembly and the Senate.

RESOLUTION CHAPTER 131

Assembly Joint Resolution No. 37—Relative to Mexican-American veterans.

[Filed with Secretary of State September 18, 1975.]

WHEREAS, The Veterans of Foreign Wars of the United States Post 6315 of Pico Rivera, California, is a post in good standing with over 100 members; and

WHEREAS, The Veterans of Foreign Wars Post 6315 of Pico Rivera, California, is composed of a membership of Mexican-American ethnic background; and

WHEREAS, Mexican-American veterans have received more congressional medals and other high honors than any other ethnic group during World War II and the Korean War; and

WHEREAS, Mexican-American veterans, during the Vietnam War, again demonstrated their fighting ability and suffered a greater percentage of casualties than any other ethnic group in the United States; and

WHEREAS, No Mexican-American veteran was classified as a deserter and instead they all stood fast in their dedication to duty; and

WHEREAS, Some Mexican-American veterans are not citizens of the United States despite the fact that they served honorably during the Vietnam War; and

WHEREAS, These veterans of Mexican-American ancestry are being denied full citizenship and protection of the law; and

WHEREAS, The Veterans of Foreign Wars of the United States recognize the honor and sacrifice these veterans have made and that they have served honorably and steadfast in their devotion to duty; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to give due consideration to amending the Nationality Act of 1940 or to enacting a new act to grant full citizenship to all honorably discharged veterans; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 132

Senate Constitutional Amendment No. 19—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 22 of Article XX, as adopted November 6, 1934, thereof, relating to usury.

[Filed with Secretary of State September 19, 1975]

Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 1975–76 Regular Session commencing on the second day of December, 1974, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 22 of Article XX, as adopted November 6, 1934, thereof, to read:

SEC. 22. The rate of interest upon the loan or forbearance of any money, goods or things in action, or on accounts after demand or judgment rendered in any court of the state, shall be 7 percent per annum but it shall be competent for the parties to any loan or forbearance of any money, goods or things in action to contract in writing for a rate of interest:

(1) For any loan or forbearance of any money, goods or things in action, if the money, goods or things in action are for use primarily for personal, family or household purposes, at a rate not exceeding 10 percent per annum, or

(2) For any loan or forbearance of any money, goods or things in action for any use other than specified in paragraph (1), at a rate not exceeding the higher of (a) 10 percent per annum or (b) 7 percent per annum plus the rate prevailing on the 25th day of the month preceding the earlier of (i) the date of execution of the contract to

make the loan or forbearance, or (ii) the date of making the loan or forbearance established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended (or if there is no such single determinable rate for advances, the closest counterpart of such rate as shall be designated by the Superintendent of Banks of the State of California unless some other person or agency is delegated such authority by the Legislature).

No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than the amount of interest per annum allowed by this section upon any loan or forbearance of any money, goods or things in action.

However, none of the above restrictions shall apply to any building and loan association as defined in and which is operated under that certain act known as the "Building and Loan Association Act," approved May 5, 1931, as amended, or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining industrial loan companies, providing for their incorporation, powers and supervision," approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any bank as defined in and operating under that certain act known as the "Bank Act," approved March 1, 1909, as amended, or any bank created and operating under and pursuant to any laws of this State or of the United States of America or any nonprofit cooperative association organized under Chapter 4 of Division VI of the Agricultural Code in loaning or advancing money in connection with any activity mentioned in said title or any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, live stock, poultry and bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business or any corporation securing money or credit from any Federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," as amended in loaning or advancing credit so secured, nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonus, commissions, discounts or other compensation which all or any of the

said exempted classes of persons may charge or receive from a borrower in connection with any loan or forebearance of any money, goods or things in action.

The provisions of this section shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith.

RESOLUTION CHAPTER 133

Senate Concurrent Resolution No. 16—Relative to aerosol or self-pressurized containers.

[Filed with Secretary of State September 19, 1975]

WHEREAS, It has come to the attention of the Legislature of the State of California that a propellant or other substance in aerosol or self-pressurized containers with the purpose of being used to coat cooking utensils with a nonstick substance relative to the frying of foods has created a serious health hazard and has resulted in at least five known deaths as a result of the inhalation of such propellant or other substance; and

WHEREAS, It is in the public interest that an inquiry and a determination be made of the extent of public danger created by the continued use of the propellant or other substance used in such aerosol or self-pressurized containers; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the State Department of Health shall prepare a study of the propellants or other substances used in such aerosol or self-pressurized containers and the public health hazards which may be created by continuing use of such containers; and be it further

Resolved, That the State Department of Health shall report the results of this study to the Legislature no later than March 1, 1976.

RESOLUTION CHAPTER 134

Senate Concurrent Resolution No. 68—Relative to memorializing Sigmund Arywitz.

[Filed with Secretary of State September 19, 1975.]

WHEREAS, It is with sorrow that the Members of the Legislature have learned of the death of Sigmund Arywitz, a distinguished leader of the labor movement; and

WHEREAS, A native of Buffalo, New York, he received his education at New York State Teachers College, the University of Buffalo, and the City College of New York; he also was the recipient

of an honorary doctorate in humane letters from Pepperdine University of Los Angeles; and

WHEREAS, Best known for his activities as executive secretary of the Los Angeles County Federation of Labor, AFL-CIO, he first became involved in the labor movement in the 1930's; and

WHEREAS, From 1949 to 1959, Mr. Arywitz served as education director of the International Ladies Garment Workers Union; from 1959 until 1967, he was a state labor commissioner; and, in 1967, he became executive secretary of the Los Angeles County Federation of Labor, AFL-CIO; and

WHEREAS, Over the years, Mr. Arywitz worked closely with government, earning the respect and confidence of officeholders at city, county, state, and federal levels; and

WHEREAS, Active in civic affairs, he was a past president of Aid to the United Givers; a member of the board of directors of both the World Affairs Council and Community Television of Southern California; a member of the board of governors of the U.S.O.; and chairman of the American Trade Union Council for Histadrut; and

WHEREAS, Mr. Arywitz also served as vice president of the United Way, Inc.; was a member of the City of Los Angeles Manpower Advisory Committee, Town Hall of California, the executive committee of the City of Los Angeles Mayor's Labor Management Advisory Committee, and the Public Commission on County Government of the Los Angeles Bar Association; and was also a member of the advisory board of the Watts Labor Community Action Committee; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the members extend their sincere condolences on the death of Sigmund Arywitz to his wife, Barbara; and be it further

Resolved, That a suitably prepared copy of this resolution be transmitted to Mrs. Sigmund Arywitz.

RESOLUTION CHAPTER 135

Senate Concurrent Resolution No. 69—Approving amendments to the Charter of the County of Los Angeles, State of California, ratified by the qualified electors of the county at a general election held therein on the fifth day of November, 1974.

[Filed with Secretary of State September 19, 1975]

WHEREAS, Proceedings have been taken and had for the proposal, adoption, and ratification of amendments to the Charter of the County of Los Angeles, State of California, as hereinafter set forth in the certificate of the chairman and clerk of the board of supervisors of the county, as follows:

1974 AMENDMENTS TO CHARTER OF THE COUNTY OF LOS ANGELES

Whereas, the County of Los Angeles, State of California, has been at all times herein mentioned, and now is, a body politic and corporate, and a political subdivision of the State of California, and is now, and has been, since the second day of June, 1913, organized and acting under and by virtue of a freeholders' charter, adopted under and by virtue of the provisions of Article XI of the Constitution of the State of California, which Charter was duly ratified by the qualified electors of said County at an election held for that purpose on the fifth day of November, 1912, and approved by the Legislature of the State of California on the twenty-ninth day of January, 1913; and

Whereas, the Board of Supervisors of said County pursuant to the provisions of Section 3 of Article XI of said Constitution, did, by Resolution adopted on the twenty-third day of July, 1974, duly propose to the qualified electors of said County of Los Angeles four Amendments to the Charter of said County, designated as proposed County Charter Amendments Nos. C, D, E and F, respectively, and ordered that said Amendments be submitted to said qualified electors of said County at the general election to be held in said County on the fifth day of November, 1974, which date was the day fixed by law for the holding of said general election; and

Whereas, said proposed Charter Amendments Nos. C, D, E and F, were published for 10 times in the Metropolitan News, a daily newspaper of general circulation printed, published and circulated in said County, to wit, on August 7, 8, 9, 12, 13, 14, 15, 16, 19, and 20, 1974; and

Whereas, said Board of Supervisors, by said Resolution adopted on said twenty-third day of July, 1974, did order the placing of said proposed Charter Amendments on the ballot of said general election to be held in said County of Los Angeles on said fifth day of November, 1974, which date was not less than 74 days after said publication of such proposals, as aforesaid, for 10 times in a daily newspaper of general circulation printed, published and circulated in said County; and

Whereas, said general election was held in said County of Los Angeles on said fifth day of November, 1974; and

Whereas, thereafter, the Registrar of Voters of said County of Los Angeles did, in the manner provided by law, duly and regularly canvass the returns of said election and certify the same to the Clerk of the Board of Supervisors of said County and said Clerk did on the twenty-sixth day of November, 1974, duly enter on the records of said Board of Supervisors a statement of the results of said canvass and said election; and

Whereas, at said general election held on said fifth day of November, 1974, one only of said proposed Amendments was ratified by a majority of the electors of said County voting thereon; and

Whereas, said Charter Amendments so ratified by the electors of said County of Los Angeles is now submitted to the Legislature of the State of California for approval without change pursuant to the provisions of said Section 3 of Article XI of the Constitution of the State of California, and are in words and figures as follows, to wit:

Proposed Charter Amendment

That the Charter of the County of Los Angeles be amended by amending Section 22¾ and Section 31 thereof, to read:

Section 22¾. The Director of Personnel shall perform duties as provided in Article IX hereof.

To enable a consolidation of personnel functions of the County, other than personnel functions which are the responsibility of other appointing authorities pursuant to the provisions of this Charter, the Board of Supervisors may prescribe that the Director of Personnel exercise general supervision over and enforce all or any portion of the rules and procedures of the County's personnel system including, but not being limited thereto, the making of reports and recommendations to the Board of Supervisors with respect to the compensation of County employees and the administration of rules and procedures to be followed in the County's employer-employee relationships. All duties performed by the Director of Personnel, other than those performed pursuant to Article IX hereof, shall be under the direction of the Board of Supervisors.

Section 31. The Director of Personnel shall administer the Civil Service System under the direction of the Commission. The Director of Personnel shall, under the direction of the Board of Supervisors, perform such other duties as may be prescribed by said Board pursuant to the provisions of Section 22¾ hereof. The Director of Personnel shall appoint all assistants, deputies, and other persons in the department.

State of California }
County of Los Angeles } ss.

We, the undersigned, James A. Hayes, Chairman of the Board of Supervisors of the County of Los Angeles, State of California and James S. Mize, Executive Officer-Clerk of the Board of Supervisors of said County of Los Angeles, do hereby certify:

That the foregoing proposed and ratified Amendment to the Charter of said County of Los Angeles, submitted to the electors of said County at the general election held in said County on said fifth day of November, 1974, has been compared by us, and each of us, with the proposed Amendments set forth in the Resolution adopted by said Board of Supervisors as hereinbefore set forth, and that the foregoing is a full, true, correct and exact copy thereof, and we further certify that the facts set forth in the preamble preceding said Amendment to said Charter are, and each of them, is true.

In witness whereof, we have hereunto set our hands and caused the same to be attested by the County Clerk of the County of Los Angeles and authenticated by the seal of the Board of Supervisors of the County of Los Angeles, this _____ day of June, 1975.

JAMES A. HAYES
James A. Hayes, Chairman, Board of Supervisors of the County of Los Angeles
JAMES S. MIZE
James S. Mize, Executive Officer-Clerk of the Board of Supervisors of the County of Los Angeles

Clarence E. Cabell, County Clerk
of the County of Los Angeles
CLARENCE E. CABELL

WHEREAS, The proposed amendments to the charter, as adopted and ratified as hereinabove set forth, have been and now are 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 3 of Article XI of the Constitution of the State of California, as it read at the time of adoption of these proposed amendments; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly 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 County of Los Angeles as proposed to, and adopted and ratified by, the electors of the county as hereinabove fully set forth, are hereby approved as a whole, without alteration or amendment, for and as amendments to, and as part of, the Charter of the County of Los Angeles.

RESOLUTION CHAPTER 136

Senate Concurrent Resolution No. 70—Relative to a recess of the Legislature.

[Filed with Secretary of State September 19, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Senate and the Assembly shall be in the Interim Study Recess from adjournment on Friday, September 12, 1975, until reconvention on Monday, January 5, 1976.

RESOLUTION CHAPTER 137

Senate Joint Resolution No. 6—Relative to income tax deductions for geothermal drilling expenses.

[Filed with Secretary of State September 19, 1975]

WHEREAS, The federal Internal Revenue Code of 1954 has been interpreted by the Internal Revenue Service of the United States Treasury Department in such manner that the intangible drilling costs incurred in geothermal energy development may not be deducted when they are incurred, as ordinary business expenses; and

WHEREAS, The Internal Revenue Service allows a deduction for such costs incurred in drilling for oil; and

WHEREAS, The denial of such a deduction for geothermal energy development constitutes a gross inequity in a time when the nation's need for energy development is great; and

WHEREAS, Geothermal exploration and development efforts will be substantially curtailed unless the Internal Revenue Code is amended to permit geothermal exploration ventures to treat such intangible drilling costs as ordinary business expenses which may be deducted when they are incurred; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to undertake the amendment of the Internal Revenue Code of 1954 to authorize the deduction of intangible drilling costs incurred in geothermal exploration ventures as current business expenses; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 138

Senate Joint Resolution No. 24—Relative to the regulation of televised violence.

[Filed with Secretary of State September 19, 1975]

WHEREAS, Violent crime imperils the health and safety of every American, exposes many persons to suffering and even death, and decreases the quality of life by engendering a pervasive climate of fear; and

WHEREAS, Violent crime in the United States and in the State of California has in recent years shown an alarming rate of increase, and

no readily available means of curbing this increase has been found; and

WHEREAS, A particularly disturbing aspect of the current trend in violent crime is its rapid upsurge among juveniles; and

WHEREAS, The character of much juvenile violence, in both school and nonschool situations, is marked by random, senseless aggression directed at both peer group and unknown individuals, and appears to be solely an expression of violence as an end in itself; and

WHEREAS, Because of the deeply disturbing character of this trend, a thorough review should be made of the formative influences leading to attitudes which motivate widespread juvenile violence; and

WHEREAS, It is widely suggested that television is a most significant influence upon most children growing up in America today, portraying many aspects of violence which many juveniles would not ordinarily witness in contemporary home, school, work, and criminal settings; and

WHEREAS, The prevalence of televised violence may tend to habituate the viewer to violence as a mode of interpersonal relations, and may stimulate the tendency to indulge in violent acts by a vivid presentation of behavior and events beyond the scope of normal experience; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California memorializes the Federal Communications Commission to seriously consider the need for controls on televised violence and to determine ways in which televised violence may be reduced; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the Chairman of the Federal Communications Commission and to each Senator and Representative from California in the Congress of the United States.

RESOLUTION CHAPTER 139

Senate Joint Resolution No. 28—Relative to certification of pesticide applicators.

[Filed with Secretary of State September 19, 1975]

WHEREAS, A workable and realistic system of certification of pesticide applicators is essential if California is to continue to retain its traditional position as the nation's number one state in the production of essential foods and fiber; and

WHEREAS, The Federal Environmental Protection Agency, by regulation, in implementation of the Federal Environmental Pesticides Control Act of 1972 (FEPCA), has mandated all states to

provide for the certification of commercial and private applicators of restricted-use pesticides; and

WHEREAS, If a state does not submit such a state certification plan acceptable to the administrator of the Federal Environmental Protection Agency by October 21, 1975, federally classified restricted-use materials may not be used in the state after October 21, 1976; and

WHEREAS, Adequate federal funds to reimburse the State of California for the implementation of such a federal certification program have not been made available and are not planned by the Federal Environmental Protection Agency; and

WHEREAS, California's long-established and comprehensive pesticide control program administered by the state, and at the local level by county agricultural commissioners, has proven to be one of the most effective in the nation; and

WHEREAS, California's system of licensing commercial pest control applicators, together with its unique permit system for the use of restricted materials by both commercial and private applicators, provides the necessary safeguards for safe and proper use of pesticides; and

WHEREAS, Legislation has been introduced in the Congress of the United States, HR 4952 and HR 5972, which authorizes a certification program which is compatible with the California permit system for the use of restricted materials; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the California delegation in the Congress of the United States to support the certification concept embodied in HR 4952 and HR 5972; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to each Senator and Representative from California in the Congress of the United States and to the Administrator of the Federal Environmental Protection Agency.

RESOLUTION CHAPTER 140

Senate Joint Resolution No. 34—Relative to South Lake Tahoe airline service.

[Filed with Secretary of State September 19, 1975]

WHEREAS, The federal Civil Aeronautics Board has recently promulgated order No. 75-6-135 by which the board has announced its intention to preempt the jurisdiction traditionally exercised by the Public Utilities Commission of this state in establishing airline fares between South Lake Tahoe and within the State of California, to the detriment of the traveling public and the airline industry; and

WHEREAS, The commission has authorized two major passenger air carriers, Air California and Pacific Southwest Airlines, to fly into the Tahoe Basin with nonjet aircraft only, based on environmental considerations, in accordance with the wishes of residents of the Tahoe area as expressed during public hearings, and the commission's regulations have been designed to insure approximately equal economic opportunity for each of the two carriers at fares which would insure the profitability of each carrier's operations and provide reasonable charges to the traveling public; and

WHEREAS, The effect of the Civil Aeronautics Board's order would almost assure unprofitability for Air California, permit jet service with no consideration of its environmental effects, and unnecessarily increase the cost of transportation by permitting an increase in fare to San Diego from $34.40 to $41.45, to Ontario from $32 to $45.25, to Palm Springs from $38 to $51, to Santa Ana from $32 to $45.25, and to San Francisco from $19 to $28; and

WHEREAS, It is in the best interests of the public that air service to South Lake Tahoe be provided by two viable carriers using aircraft causing the least possible detriment to the environment at the lowest fares consistent with satisfactory service and reasonable profitability; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Civil Aeronautics Board is respectfully memorialized to rescind its Order No. 75-6-135 and thereby restore to the Public Utilities Commission of this state its traditional jurisdiction over and responsibility for economic regulation of passenger air carriers operating between South Lake Tahoe and other points within this state; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Civil Aeronautics Board.

RESOLUTION CHAPTER 141

Senate Joint Resolution No. 36—Relative to the Honorable Gerald R. Ford, President of the United States of America.

[Filed with Secretary of State September 19, 1975]

WHEREAS, You, the President of the United States of America, took time from your busy schedule to visit our great State of California and discuss with us the vital issues of the state, nation, and the world; and

WHEREAS, We, as legislators, and the citizens of the State of

California anticipated and welcomed your visit with great pride; and

WHEREAS, An attempt was made on your life during your visit, and the Members of the State Legislature regret the occurrence of this tragic incident; however, we are so pleased that you are well and have returned to the nation's capital safely; and

WHEREAS, The members commend you for being a man of such great stature and courage as to carry out your mission here in our state's capitol after having been faced with a near-fatal experience, appreciate and thank you for the fair exchange of ideas in the closed door session with the leadership of both houses and for your message at the joint session, and hope that this tragic incident will not prevent you from returning to our state again, now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature welcomes you to California again and hopes and prays that sanity will prevail among our citizens and that no such tragic incident will occur again; and be it further

Resolved, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to the Honorable Gerald R. Ford, President of the United States of America.

1975–76

FIRST EXTRAORDINARY SESSION

PROCLAMATION BY THE GOVERNOR

Convening the Legislature in First Extraordinary Session

EXECUTIVE DEPARTMENT, STATE OF CALIFORNIA

PROCLAMATION

A growing number of people in California are unable to obtain decent housing because of high interest rates, inflation, and other dislocations in the economy.

The prompt establishment of a state housing finance agency will enable California to receive millions of dollars under the federal Housing and Community Development Act of 1974.

Therefore, by virtue of Article IV, Section 3 of the Constitution, I hereby convene the Legislature of the State of California in extraordinary session at Sacramento at noon Monday, February 17, 1975, to consider and act on housing and housing finance legislation

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 16th day of February 1975

[SEAL]

EDMUND G. BROWN JR.
Governor of California

Attest: MARCH FONG EU
Secretary of State
BY MARY ANN MILLER
Deputy Secretary of State

CHAPTER 1

An act to amend Sections 11552, 11556, 16522, and 53651 of the Government Code, and to add Division 31 (commencing with Section 41000) to, and to repeal Part 8 (commencing with Section 37000) of Division 24 of, the Health and Safety Code, and to repeal Section 8 of Chapter 1222 of the Statutes of 1965, relating to housing, making an appropriation therefor, and providing for the preparation, issuance, and sale of state bonds to create a fund to be used by the California Housing Finance Agency to make loans for financing housing developments, and providing for the submission of the bond measure to the people at a special election to be consolidated with the 1976 general election.

[Approved by Governor June 27, 1975 Filed with Secretary of State June 27, 1975]

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

SECTION 1. Section 11552 of the Government Code is amended to read:

11552. An annual salary of thirty thousand dollars ($30,000) shall be paid to each of the following:

(a) Superintendent of Banks
(b) Commissioner of Corporations
(c) Insurance Commissioner
(d) Director of Transportation
(e) Real Estate Commissioner
(f) Savings and Loan Commissioner
(g) Director of Benefit Payments
(h) Director of Water Resources
(i) Director of Food and Agriculture
(j) Director of Corrections
(k) Director of General Services
(*l*) Director of Industrial Relations
(m) Director of Motor Vehicles
(n) Director of Youth Authority
(o) Commissioner, California Highway Patrol
(p) Members of the Public Utilities Commission
(q) Director of Employment Development
(r) Director of Alcoholic Beverage Control
(s) Director of Housing and Community Development

SEC. 2 Section 11556 of the Government Code is amended to read:

11556. An annual salary of twenty-five thousand dollars ($25,000) shall be paid to each of the following:

(a) Director of Navigation and Ocean Development
(b) Director, Office of Emergency Services
(c) Members of the Adult Authority

(d) Members of the Board of Equalization
(e) Members of the State Water Resources Control Board
(f) Members of the Youth Authority Board
(g) State Fire Marshal

SEC. 3. Section 16522 of the Government Code is amended to read:

16522. The following securities may be received as security for demand and time deposits:

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

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any county, city, town, metropolitan water district, municipal utility district, municipal water district, bridge and highway district, flood control district, school district, water district, water conservation district or irrigation district within this state, and, in addition, revenue or tax anticipation notes, and revenue bonds payable solely out of the revenues from a revenue-producing property owned, controlled or operated by this state, or such local agency or district, or by a department, board, agency, or authority thereof.

(d) Registered warrants of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, in the bonds of any federal home loan bank established under said act, and in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act, as amended.

(f) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

SEC. 4. Section 53651 of the Government Code, as amended by Section 4 of Chapter 464 of the Statutes of 1973, is amended to read:

53651. Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of such bonds upon all property within its boundaries subject to taxation by such local agency or district, and in addition, sales tax revenue bonds, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by such state, local agency or district or by a department, board, agency or authority thereof.

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations.

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, bonds, or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under said act, and obligations of the Tennessee Valley Authority.

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7.6 (commencing with Section 53850) of this Chapter 4.

(h) State of California notes.

(i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by: (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency

thereof having the power to levy taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby; provided such obligations issued by an entity described in subsection (1) are rated in one of the three highest grades, and such obligations issued by an entity described in subsection (2) are rated in one of the two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years.

(j) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, and the Government Development Bank of Puerto Rico.

(k) Participation certificates of the Export-Import Bank of the United States.

(*l*) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

This section shall become inoperative and is repealed on the operative date of Section 53651 of the Government Code as amended by Section 5 of the chapter amending this section at the 1973–74 Regular Session.

SEC. 5. Section 53651 of the Government Code, as amended by Section 5 of Chapter 464 of the Statutes of 1973, is amended to read:

53651. Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of such bonds upon all property within its boundaries subject to taxation by such local agency or district, and in addition, sales tax revenue bonds, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by such state, local agency or district or by a department, board, agency or authority thereof.

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the

Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations.

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, bonds, or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under said act, and obligations of the Tennessee Valley Authority.

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7.6 (commencing with Section 53850) of this Chapter 4.

(h) State of California notes.

(i) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, and the Government Development Bank of Puerto Rico.

(j) Participation certificates of the Export-Import Bank of the United States.

(k) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 41700) of Part 3 of Division 31 of the Health and Safety Code.

This section shall become operative on January 1, 1976.

SEC. 6. Part 8 (commencing with Section 37000) of Division 24 of the Health and Safety Code is repealed.

SEC. 7. Division 31 (commencing with Section 41000) is added to the Health and Safety Code, to read:

DIVISION 31. HOUSING AND HOME FINANCE

PART 1. STATE HOUSING POLICY AND GENERAL PROVISIONS

CHAPTER 1. LEGISLATIVE FINDINGS AND DECLARATIONS

41000. This division shall be known and may be cited as the Zenovich-Moscone-Chacon Housing and Home Finance Act.

41001. The Legislature finds and declares that the subject of housing is of vital statewide importance to the health, safety, and welfare of the residents of this state, for the following reasons:

(a) Decent housing is an essential motivating force in helping people achieve self-fulfillment in a free and democratic society.

(b) Unsanitary, unsafe, overcrowded, or congested dwelling accommodations constitute conditions which cause an increase in, and spread of, disease and crime.

(c) A healthy housing market is one in which residents of this state have a choice of housing opportunities and one in which the housing consumer may effectively choose within the free marketplace.

(d) A healthy housing market is necessary both to achieve a healthy state economy and to avoid an unacceptable level of unemployment.

41002. The Congress of the United States has established, as a national goal, the provision of a decent home and a suitable living environment for every American family and the Legislature finds and declares that the attainment of this goal is a priority of the highest order. The national housing goal, as it applies to California, is deserving of adoption by the Legislature, with the accompanying commitment to guide, encourage, and direct where possible, the efforts of the private and public sectors of the economy to cooperate and participate in the early attainment of a decent home and a satisfying environment for every Californian.

The attainment of a national and state housing goal is complicated by a variety of continuing problems, not the least of which are the absence of a coherent housing policy, the absence of a comprehensive framework outlining the dimensions of need and obstacles preventing the fulfillment of such need, the absence of effective private-public mechanisms designed to engender and facilitate a partnership approach to housing, and the absence of effective subsidy programs designed to reach very low income households and other persons and families of low or moderate income.

41003. The Legislature finds and declares that, as a result of public actions involving highways, public facilities, and urban renewal projects, and as a result of poverty and the spread of slum conditions and blight to formerly sound neighborhoods, there exists within the urban and rural areas of the state a serious shortage of

decent, safe, and sanitary housing which persons and families of low or moderate income, including the elderly and handicapped, can afford. This shortage is inimical to the safety, health, and welfare of the residents of this state and the sound growth of its communities. Private enterprise and investment, without the assistance contemplated in this division, is not disposed to provide, nor can it economically achieve, the needed construction of decent, safe, and sanitary housing at rentals which persons and families of low and moderate income can afford and the urgently needed rehabilitation of existing housing.

In order to remedy such housing shortages, it is necessary to implement a public program incorporating the following elements and goals:

(a) A reduction in the cost of mortgage financing for rental housing to provide lower rent for persons and families of low or moderate income.

(b) A reduction in the cost of mortgage financing for home purchases, in order to make homeownership feasible for persons and families of low or moderate income.

(c) The availability of mortgage financing in geographical areas in which private lenders have been unable or unwilling to commit sufficient funds for residential lending.

(d) The provision of assistance and encouragement with respect to residential construction and rehabilitation by private enterprise which will house persons of varied economic means in the same structures and neighborhoods, thereby alleviating and contributing to the permanent elimination of slum conditions.

(e) An increase in the supply of housing available to the elderly and handicapped and large families

(f) Encouragement and assistance of housing and community development in rural areas and among Indian residents of the state.

(g) Encouragement of mutual self-help housing projects, home management training, and relocation assistance.

(h) Maximum utilization of federal subsidies available to meet housing needs of very low income households and persons and families of low and moderate income.

(i) The provision to local governments of the financial resources, statistical data, and technical assistance needed to assist them in meeting housing needs within their respective jurisdictions. The term "financial resources," as used in this subdivision, means proceeds from the sale of bonds by the agency and federal assistance made available to the agency for any of the purposes of this division.

41004. The Legislature finds and declares that it is to the economic benefit of the state and a public purpose to encourage the availability of adequate housing and home finance for persons and families of low or moderate income, and to develop viable urban and rural communities by providing decent housing, enhanced living environment, and increased economic opportunities for persons and families of low or moderate income. The exercise of the powers

specified in this division will be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions. Therefore, this division shall be liberally construed to effect its purposes.

41005. The Legislature finds and declares that full cooperation and coordination with the cities and counties of the state in meeting the housing needs of the state on a level of government which is as close as possible to the people it serves is essential if workable housing programs are to be developed and implemented.

41006. The Legislature finds and declares that a number of federal housing programs have failed to reach the fundamental goals and purposes for which they were established, especially in urban areas. In California, this failure has often been related to inadequate consideration of the relationship between housing and the community in which the housing is located.

It is the intent of the Legislature in enacting this division to seek to avoid such failures by providing a comprehensive and balanced approach to the solution of housing problems of very low income households and persons and families of low or moderate income in the state. It is further the intent of the Legislature to provide a program which gives consideration, not only to the production and financing of housing, but also to the social and aesthetic impact of such housing. A California housing program must consider the distribution throughout the state of such housing as may be assisted pursuant to this division, the avoidance of imposed economic, ethnic, and racial isolation or concentration, an emphasis on superior design, including the scale and location of such housing, the preparation of communities and persons to avail themselves of the program, and other factors which contribute to a decent living environment. Such program shall be designed to overcome racial isolation and concentration through revitalization of deteriorating and deteriorated urban areas by attracting a full range of income groups to central-city areas to provide economic integration with persons and families of low or moderate income in such areas.

41007. The Legislature finds and declares that the large equities that the majority of California residents in most economic strata have now accumulated in single-family homes must be protected and conserved.

41008. Nothing in this division shall authorize the imposition of controls on rents for housing units not financed pursuant to this division.

CHAPTER 2. DEFINITIONS

41020. Unless otherwise indicated by the context, the definitions contained in this chapter shall govern the construction of this division.

41021. "Affirmative action" means any program created pursuant to rules and regulations of the agency to create greater job

opportunities for members of disadvantaged racial, sexual, religious, ancestral, or national-origin groups. Such program shall include educational, promotional, and other appropriate activity designed to secure greater employment opportunity for the members of such groups.

41022. "Affirmative marketing program" means any program approved by the agency that is designed to achieve greater access to housing opportunities created by this division for members of disadvantaged racial, sexual, religious, ancestral or national-origin groups. Such program shall include educational, promotional, and other appropriate activity designed to secure greater housing opportunities for the members of such groups. Where a significant number of persons in a community have limited fluency in the English language, publications implementing an affirmative marketing program in that community shall be provided in the native language of such persons.

41023. "Affordable rent" means rent not in excess of the percentage of the gross income of the occupant person or family established by regulation of the agency and not in excess of market rent. Such percentage shall be established at not more than 25 percent nor less than 15 percent of gross income as will best serve the purposes of this division. The agency shall, by regulation, adopt criteria defining, and providing for determination of, gross income and rent for purposes of this section, which shall be consistent with pertinent regulations of the United States Department of Housing and Urban Development or other federal law with respect to developments aided by the federal government.

41024. "Agency" means the California Housing Finance Agency.

41025. "Assisted housing" means housing financed by a below-market interest rate mortgage insured or purchased, or a loan made, by the Secretary of the United States Department of Housing and Urban Development or by the Farmers Home Administration of the United States Department of Agriculture; or a market-interest-rate mortgage insured or purchased, or a loan made in combination with, or as augmented by, a program of rent supplements or subsidies, interest subsidies, leasing, contributions or grants, or other programs as are now or hereafter authorized by federal law to serve persons and families of low or moderate income; or a mortgage or loan made pursuant to this division; or a mortgage or loan from any private or public source with an interest rate and terms satisfactory to the agency and which will meet the requirements and purposes of this division.

41026. "Below-market interest" means a below-market interest rate adequate to return to the agency sufficient income to meet its obligations, reserve requirements, and expenses connected with a loan financed by the agency for which such interest rate is established as determined by the agency at the time of commitment of funds, for the permanent financing.

41027. "Board" means the board of directors of the agency.

41028. "Bonds" means bonds, notes (including construction loan notes), debentures, interim certificates, or other evidences of financial indebtedness issued by the agency pursuant to Part 3 (commencing with Section 41300) of this division.

41029. "Cause" means gross neglect of duties, fraud, or violation of Section 41304 or Section 41305.

41030. "Citizen participation" means action by the local public entity that is approved by the agency as sufficient to provide persons who will be affected by financing assistance under the provisions of Chapter 6 (commencing with Section 41550) of Part 3 of this division with opportunities to be involved in planning and carrying out the financing assistance program. "Citizen participation" shall include, but not be limited to, all of the following and in the order provided below:

(1) Holding a public meeting prior to the hearing by the local public entity considering selection of the area for designation.

(2) Consultation with an elected or appointed citizen advisory board, composed of representatives of both owners of property in, and residents of, a proposed participating concentrated rehabilitation area, in developing a plan for public improvements and the rules and regulations for implementation of the proposed rehabilitation assistance program.

(3) Dissemination at least seven days prior to the original hearing by mailing to property owners within the proposed rehabilitation area at the address shown on the latest assessment roll and by distributing to residents of the proposed participating concentrated rehabilitation area by a manner determined appropriate by the local public entity, of information relating to the time and location of the hearing, boundaries of the proposed area, and a general description of the proposed rehabilitation assistance program.

In addition to the requirements of paragraphs (1) to (3), inclusive, any other means of citizen involvement determined appropriate by the legislative body of the local public entity may be implemented.

Public meetings and consultations held to implement the requirements of citizen participation shall be conducted by a planning or rehabilitation official designated by the legislative body of the local public entity. Public meetings shall be held at times and places convenient to residents and property owners.

41031. "Commission" means the Commission of Housing and Community Development.

41032. "Construction loan" means a short-term loan secured by real property, made for development costs incurred in construction or rehabilitation of a housing development.

41033. "Department" means the Department of Housing and Community Development.

41034. "Development costs" means the aggregate of all costs incurred in connection with a housing development which are approved by the agency as reasonable and necessary, including, but not limited to, the following:

(a) The cost of refinancing or acquiring land and any buildings thereon, including payments for commissions, options, deposits, or contracts to purchase properties on a proposed housing development site or payments for the purchase of such properties.

(b) The cost of site preparation, demolition, and clearing.

(c) Architectural, engineering, legal, accounting, consulting, and other fees paid or payable in connection with the planning, execution, and financing of a housing development and the finding of an eligible mortgagee for a housing development.

(d) The cost of necessary studies, surveys, plans, and permits.

(e) The cost of insurance, interest and financing, tax and assessment costs, and other operating and carrying costs incurred during construction or rehabilitation.

(f) The cost of construction, rehabilitation, reconstruction and fixtures, medical facilities, furnishings, equipment, machinery, apparatus, and similar facilities and equipment related to the real property.

(g) The cost of land improvements, including, but not limited to, landscaping, site preparation and streets, sewers, utilities, and other offsite improvements, whether or not such costs are paid in cash or in a form other than cash.

(h) A reasonable profit and risk fee, as defined in regulations of the agency, in addition to job overhead to the general contractor and, if applicable, to a limited-dividend housing sponsor.

(i) An allowance established by the agency for working capital and for reasonable reserves set aside to defray unanticipated additional development costs.

(j) Necessary expenses incurred in connection with initial occupancy of a housing development, including reserves for any anticipated operating deficits to be incurred during the construction period and the initial years of occupancy.

(k) Repayment of a development loan.

(*l*) The cost of modifying a housing development or structure so that it is accessible to and convenient for the elderly or handicapped.

(m) The cost of such other items, including tenant and homeowner relocation and tenant and homeowner counseling, as the agency shall determine to be reasonable and necessary for the development of a housing development.

The statement of a specific cost item within this section shall in no way imply a requirement that the agency finance that item in making a loan on any housing development. Development costs shall not include any greater portion of the total cost of a housing development owned by a limited-dividend housing sponsor than is consistent with an equity investment sufficient to ensure a substantial and continuing interest by such sponsor in the housing development

41035. "Development loan" means a loan, made prior to the granting of a construction loan, for planning, acquisition of land and improvements thereon, and site preparation for a housing

development. A development loan may include costs of architectural, engineering, legal and consulting services, the cost of necessary studies, surveys and governmental permits, and the cost of such other items as the agency deems reasonable and necessary for the initial preparation for construction or rehabilitation of a housing development.

41036. "Elderly" means a family in which the head of the household is 60 years of age or older or a single person who is 60 years of age or older. The age may be adjusted by the agency to facilitate participation in other municipal state, or federal programs.

41037. "Financial interest" has the same meaning as specified in Section 87103 of the Government Code.

41038. "Fund" means the California Housing Finance Fund.

41039. "Governmental agency" means the United States of America, the State of California, any city, county, or city and county within this state and any department, division, public corporation, or public agency of this state or of the United States, or two or more of such entities acting jointly, or the duly constituted governing body of an Indian reservation or rancheria.

41040. "Guaranteed taxable bonds" means taxable bonds secured by a pledge of the full faith and credit of the United States for the payment of the principal, interest and any redemption premium on bonds issued under the authority of this division. Where the federal guarantees are for less than 100 percent of the liability, municipal, state, or private guarantees, bond insurance, or mortgage insurance shall cover the amount not backed by the federal government.

41041. "Handicapped" means a family in which the head of the household is suffering from an orthopedic disability impairing personal mobility or a physical disability affecting his or her ability to obtain employment or a single person with such physical disability, where the family or person requires special care or facilities in the home. "Handicapped" also includes a family in which the head of household suffers from a developmental disability specified in subdivision (h) of Section 38003 or a mental disorder which would render him or her eligible to participate in programs of rehabilitation or social services conducted by or on behalf of a public agency, or a single person with such developmental disability or mental disorder.

41043. "Housing development" means any work or undertaking of new construction or rehabilitation, or the acquisition of existing residential structures in good condition, for the provision of housing which is financed pursuant to the provisions of this division for the primary purpose of providing decent, safe, and sanitary housing for persons and families of low or moderate income. "Housing development" also means housing financed pursuant to this part for rental occupancy of, for resale to, or sold to, persons and families of low or moderate income. Notwithstanding other provisions of this section "housing development" does not include a work or undertaking financed by a neighborhood improvement loan. A housing development may include housing for other economic

groups as part of an overall plan to develop new or rehabilitated communities or neighborhoods, where housing for persons and families of low or moderate income is a primary goal. A housing development may include any buildings, land, equipment, facilities, or other real or personal property which the agency determines pursuant to its rules and regulations to be necessary or convenient in connection with the provision of housing pursuant to this division, including, but not limited to, streets, sewers, utilities, parks, site preparation, landscaping, and other nonhousing facilities, such as administrative, community, health, recreational, educational, commercial facilities, and child-care facilities which the agency determines are an integral part of a housing development or developments.

41044. "Housing sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the agency pursuant to rules and regulations of the agency as qualified to either own, construct, acquire or rehabilitate a housing development, whether for profit, nonprofit, or organized for limited profit, and subject to the regulatory powers of the agency pursuant to rules and regulations of the agency and other terms and conditions set forth in this division. "Housing sponsor" includes persons and families of low or moderate income who are approved by the agency as eligible to own and occupy a housing development and individuals and legal entities receiving neighborhood improvement loans through the agency.

41045. "Limited-dividend housing sponsor" means any sponsor which owns a housing development and whose profit or cash return is limited pursuant to Section 41482 and regulations adopted by the board pursuant thereto

41046. "Local housing agent" means a city, county, city and county, or combination thereof acting jointly, or the duly constituted governing body of an Indian reservation or rancheria which is certified by the department pursuant to Section 41512 to review applications by prospective housing sponsors for loans made or assisted under this division for housing developments proposed within the territorial boundaries of the local housing agent.

41047. "Local public entity" means any county, city, city and county, the duly constituted governing body of an Indian reservation or rancheria, redevelopment agency organized pursuant to Part 1 (commencing with Section 33000) of Division 24, or housing authority organized pursuant to Part 2 (commencing with Section 34200) of Division 24, and also includes any state agency, public district or other political subdivision of the state, and any instrumentality thereof, which is authorized to engage in or assist in the development or operation of housing for persons and families of low or moderate income. "Local public entity" also includes two or more local public entities acting jointly.

41048. "Market interest" means, except with respect to neighborhood improvement loans, the interest rate determined by the agency, pursuant to its rules and regulations, to be the lowest interest rate generally available in the private market for construction loans, loans for new single-family housing, apartment project loans, or loans on existing housing, as the case may be, at the time of commitment of funds by the agency. In the case of neighborhood improvement loans, "market interest" shall instead mean an interest rate fixed by the agency, not exceeding 10 percent annual interest nor exceeding the interest rate paid on bonds issued to finance the loan by more than 2 percent.

41049. "Market rent" means the monthly rent established by the agency as competitive according to its own regulations, except where federal regulations provide a required method of determining market rent. Determination of market rent may be reviewed annually upon application by the mortgagor, subject to applicable federal regulations, if any.

41050. "Metropolitan area" means a standard metropolitan statistical area as established by the United States Office of Management and Budget.

41051. "Mortgage" means a mortgage, deed of trust, or other instrument which is a lien on real property. "Mortgage" includes the note secured by such an instrument.

41051.5. "Mortgage deficient area" means an area where private lenders have failed to provide sufficient mortgage credit for financing or refinancing of new, existing, or rehabilitated housing developments, and such practices have caused or threaten to cause a decline in the condition or quality of the housing stock in the area.

41052. "Mortgage loan" means a long-term loan which is secured by a mortgage and is made for permanent financing, including refinancing of existing mortgage obligations as authorized by regulation of the agency, of a housing development in the state.

41053. "Mutual self-help housing" means assisted housing for which persons and families of low or moderate income contribute their own labor in individual or group efforts to provide decent, safe, and sanitary housing for themselves, their families, and others occupying the housing.

41053.5. "Neighborhood improvement loan" means a loan made for rehabilitation and improvement of a structure in a participating concentrated rehabilitation area or participating mortgage funds assistance area pursuant to Section 41554. Notwithstanding other provisions of this part such loans shall not be utilized for the acquisition of a housing development or a residential structure.

41054. "Nonmetropolitan area" means an area not included in a metropolitan area or a rural area.

41055. "Nonprofit housing sponsor" means a nonprofit corporation incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation, as defined in subdivision (a) of

Section 17265 of the Revenue and Taxation Code, which is certified by the agency as qualified to own a housing development

41055.5. "Owner-occupied housing development" means a housing development containing not more than four residential units, one of which is occupied by the owner of the housing development.

41056. "Persons and families of low or moderate income" means persons and families deemed by the agency to be unable to pay the amounts at which unassisted private enterprise is providing suitable, decent, safe, and sanitary housing. The agency shall adopt regulations establishing criteria for qualification of persons and families of low or moderate income, which may differ among different areas in the state to reflect varying economic and housing conditions. In developing such criteria, factors such as the following shall be taken into consideration:

(a) The amount of the income of such person or family that is available for housing needs.

(b) The size of the household.

(c) The cost and condition of available housing.

(d) The eligibility of such persons and families for federal housing assistance of any type.

"Persons and families of low or moderate income" includes very low income households, but does not include those persons and families whose savings or assets, or whose annual income in combination with such savings and assets, is sufficient to enable them to obtain and maintain decent, safe, and sanitary housing, without undue financial burden, as determined by regulations of the agency.

"Persons and families of low or moderate income" includes persons and families of low, moderate, or middle income, as specified in Section 802 of the Housing and Community Development Act of 1974 (P.L. 93-383).

Income limitations established pursuant to this division for persons and families of moderate income shall not exceed 120 percent of area median income as estimated by the agency from time to time; provided, however, that persons and families with incomes over the area median income, but not exceeding 120 percent of the area median income, may be designated as persons and families of middle income for any purpose of this division to distinguish such persons and families from other persons and families of moderate income. Income limitations for persons and families of low income shall not exceed 80 percent of the area median income However, the agency and the department jointly, or either acting with the concurrence of the Secretary of the Business and Transportation Agency, may modify such income limitations, upon a determination that they are too low, in a particular geographic area, to qualify persons and families of low or moderate income for occupancy of housing financed pursuant to Part 3 (commencing with Section 41300). Adjustments above or below such maximum income limitations shall be made to compensate for family size Nothing in this section shall

prevent the agency from adopting federal estimates of area median income and adjustments for family size as income limitations for persons and families of low or moderate income.

41057. "Qualified mortgage lender" means a mortgage lender certified by the agency, pursuant to rules and regulations thereof, to do business with the agency. Such a mortgage lender may be a bank or trust company, mortgage banker, federal- or state-chartered savings and loan association, service corporation, or other financial institution or governmental agency which is deemed capable of providing service or otherwise aiding in the financing of construction loans and mortgage loans, and nothing in any other provision of state law shall prevent such a lender or governmental agency from serving as a qualified mortgage lender under this division. A "qualified mortgage lender" that is determined by the agency to have violated state law or the terms of any agreement with the agency shall be promptly decertified.

41058. "Real property" means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including leaseholds, terms of years, and liens by way of judgment, mortgage, or otherwise.

41060. "Rehabilitation" means repairs and improvements to a dwelling unit necessary to make it an attractive, decent, safe, and sanitary dwelling which meets applicable state and local building and housing standards.

41062. "Rents" or "rentals" mean the charges paid by the persons and families of low or moderate income for occupancy in a housing development assisted under this division whether the units are rented or operated as a cooperative.

41062.5. "Residential structure" means a real property improvement used, or intended to be used, for residential or mixed residential and commercial purposes, or for commercial purposes if, in the judgment of the agency, it is an integral part of a residential neighborhood.

41063. "Rules", "regulations", or "rules and regulations" mean regulations as defined in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code. All regulations of the department and agency shall be subject to such provisions.

41064. "Rural area" means any open country, or any place, town, village, or city which is not part of or associated with an urban area and which (1) has a population not in excess of 2,500 inhabitants, or (2) has a population in excess of 2,500 but not in excess of 10,000 if it is rural in character, or (3) has a population in excess of 10,000 but not in excess of 20,000, and is not contained within a standard metropolitan statistical area. This definition may be changed by the agency to conform to changes in federal programs.

41064.5. "Rural mortgage area" means an area outside any city, metropolitan area or urban county, as such terms are defined by

Section 102 of the Housing and Community Development Act of 1974 (P.L. 93-383).

41066. "Subsidy" means any financial assistance specifically provided by a governmental agency for the benefit of persons and families of low or moderate income, which is paid to an occupant of housing financed pursuant to this part for housing costs or which reduces such occupant's housing costs. "Subsidy" shall not include any benefit resulting from a loan made by the agency nor any benefit derived from the abatement of taxes levied by the state or a political subdivision thereof.

41067. "Very low income households" means (1) persons and families whose incomes do not exceed the qualifying limits for very low income families established pursuant to Section 8 of the United States Housing Act of 1937, or (2), in the event such federal standards become obsolete, persons and families whose incomes do not exceed 50 percent of the median income, as estimated by the agency from time to time, for the area in which the housing units in question are located. Adjustments above or below such maximum income limitations shall be made to compensate for family size variations.

CHAPTER 3. GENERAL PROVISIONS

41080. In the event of conflict between this division and any other provision of law, the provisions of this division shall be deemed controlling. If any clause, sentence, paragraph, or section of this division is held invalid by any court of competent jurisdiction, the decision shall not affect or impair any of the remaining provisions.

41081. The Secretary of the Business and Transportation Agency shall be responsible for allocating financial aid and contributions made available directly to state government or to the agency by any agency of the United States for the purpose of subsidizing housing for persons and families of low or moderate income. Housing subsidies shall be first allocated to the agency. Only after the Secretary of the Business and Transportation Agency has determined that the agency has sufficient subsidies for its purposes may housing subsidies be allocated to other divisions of state government

Nothing in this division shall preclude the establishment of direct relationships between the federal government and local public entities or shall in any way alter the authority of local public entities to directly receive federal funds, nor shall anything in this division be construed to supersede or affect any other provision of law relating to the control of funds by local public entities. Further, nothing in this division shall affect the authority or reduce the obligations specified in Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code with respect to payment of relocation assistance or prevent the receipt and disbursement of federal funds made available to any governmental agency for such purpose.

41082. To further the goals of this division and to enable the

success of a statewide housing program, it is essential, and the Legislature intends, that the agency and the department shall closely coordinate their activities to assure that the goals and purposes of this division are realized.

41083. Nothing in this division, except Part 4 (commencing with Section 41800), shall be construed to authorize the creation of a debt or liability of the state within the meaning of Section 1 of Article XVI of the State Constitution.

PART 2. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND COMMISSION OF HOUSING AND COMMUNITY DEVELOPMENT

CHAPTER 1. ORGANIZATION OF THE DEPARTMENT AND GENERAL POWERS

41100. The Department of Housing and Community Development is hereby continued in existence in the Business and Transportation Agency.

41101. The department shall be administered by an executive officer known as the Director of Housing and Community Development The director shall be appointed by the Governor, subject to confirmation by the Senate, and shall hold office at the pleasure of the Governor. The director shall receive the annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

41102. The provisions of Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code apply to the department, and the director is the head of the department within the meaning of such provisions. The director shall perform all duties, exercise all powers, discharge all responsibility, and administer and enforce all laws, rules, and regulations under the jurisdiction of the department. The director shall keep all books and records necessary for proper and efficient administration of the department.

41103. The Governor shall appoint, upon the recommendation of the director, a deputy director. The deputy director shall hold office at the pleasure of the director and shall receive a salary as shall be fixed by the director with the approval of the Department of Finance.

41104. The work of the department shall be divided into the following three divisions:

(a) The Division of Codes and Standards.

(b) The Division of Research and Policy Development.

(c) The Division of Community Affairs.

41105. Each division shall be in the charge of a chief, under the direction of the director. The chiefs shall be appointed, upon recommendation by the director, by the Governor. Such division chiefs shall hold office at the pleasure of the director, and shall

receive a salary as shall be fixed by the director with the approval of the Department of Finance.

41106. For the purposes of this division, the department shall have all of the following powers:

(a) To sue and be sued in its own name.

(b) To have an official seal and to alter it at pleasure.

(c) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions.

(d) To employ architects, planners, engineers, attorneys, accountants, experts in housing construction, management and finance, and such other advisers, consultants, and agents as may be necessary in its judgment for the performance of its functions and to fix their compensation in accordance with applicable law.

(e) To provide advice, technical information, and consultative and technical services as provided in this division.

(f) To establish, revise from time to time, and charge and collect fees and charges for services provided pursuant to this division.

(g) To accept gifts or grants or loans of funds or property or financial or other aid from any federal or state agency or private source and to comply with conditions thereof not contrary to law

(h) To enter into agreements or other transactions with any governmental agency, including an agreement for administration of a housing or community development program of the governmental agency by the department, or for administration by another governmental agency of a program of the department, either in whole or in part.

(i) To enter such agreements and perform such acts as are necessary to obtain subsidies for use in connection with the exercise of powers and functions of the department, and to transfer such subsidies to others as required by any such agreement.

(j) To appear in its own behalf before boards, commissions, departments, or other agencies of local, state, or federal government.

(k) To establish such regional offices as deemed necessary to effectuate the department's purposes and functions.

(*l*) To acquire real or personal property, or any interest therein, on either a temporary or long-term basis, in its own name by gift, purchase, transfer, foreclosure, lease, option, or otherwise, including easements or other incorporeal rights in property.

(m) To provide bilingual staff in connection with services of the department and make available departmental publications in a language, other than English, where necessary to effectively serve groups for which such services or publications are made available

(n) To do any and all things necessary to carry out its purposes and exercise the powers expressly granted by this division.

41108. The department shall be the principal state department responsible for coordinating federal-state relationships in housing and community development, except for housing finance. The department shall continually evaluate the impact upon the state of federal policies and programs affecting housing and community

development and encourage full utilization of federal programs available for assisting the residents of this state, the private housing industry, and local public entities in satisfying housing and community development needs in this state.

41109 The department shall annually submit to the Governor and both houses of the Legislature:

(a) Recommendations for changes in state and federal law necessary to meet the need for housing and community development in the state.

(b) An annual report of the operations and accomplishments of the department, and of other state departments as they affect state housing and community development activities.

(c) A report containing revisions of the California Statewide Housing Plan.

CHAPTER 2. POLICY ACTIVITIES OF THE DEPARTMENT

41125. The department shall complete and recommend for adoption a California Statewide Housing Plan. The plan shall be developed in cooperation with the private housing industry as well as regional and local housing and planning agencies and other agencies of the state. Subsequent to environmental review and a review of consistency with other state plans by the State Office of Planning and Research, it shall be referred by the commission, together with the commission's comments, to the Legislature for review, revision, and adoption as the California Statewide Housing Plan. Upon enactment it shall serve as a state housing plan for purposes of the Housing and Community Development Act of 1974 (P.L. 93-383).

41126. The California Statewide Housing Plan shall incorporate a statement of housing goals, policies, and objectives, as well as the following segments:

(a) An evaluation and summary of housing conditions throughout the State of California, with particular emphasis upon the availability of housing for all economic segments of the state. Such evaluation shall include an analysis of all areas outside metropolitan areas, which may be divided into one or more multicounty areas by the department, and rural areas, as defined and designated by the Bureau of the Census of the United States Department of Commerce, rather than as defined in Section 41064, of each metropolitan area, and of each regional planning area designated by the State Office of Planning and Research or by the United States Department of Housing and Urban Development. The evaluation shall include an analysis of the existing distribution of housing by type, size, gross rent, value, and, to the extent data is available, condition, and of the existing distribution of households by gross income, size, and ethnic character for each such area and region in such form as to present for each county, area, and region the number of rooms, gross income, household size, and rent or value

cross-tabulated in a single table.

(b) Housing development goals for the 1975–76 fiscal year and projected four additional fiscal years ahead. Such goals shall be established as the minimum number of units necessary to be built or rehabilitated by July 1, 1980, in order to provide sufficient housing to house all residents of the state in standard, uncrowded units in suitable locations.

(c) Goals for the provision of housing assistance for the 1975–76 fiscal year and projected four additional fiscal years ahead. Such goals shall be established as the minimum number of households to be assisted which will result in achieving by July 1, 1980, a substantial reduction in the number of very low income households and other persons and families of low or moderate income constrained to pay more than 25 percent of their gross income for housing. Income groups to be considered in establishing such goals shall be designated by the department and shall include households a significant number of which are required to pay more than 25 percent of their gross income for housing on the effective date of this section, as determined by the department.

(d) An identification of market constraints and obstacles and specific recommendations for their removal.

(e) An analysis of state and local housing and building codes and their enforcement. Such analysis shall include consideration of whether such codes contain sufficient flexibility to respond to new methods of construction and new materials.

(f) Recommendations for state and other public and private action which will contribute to the attainment of housing goals established for California.

41127. The department shall annually update and provide to the commission, for review, comment, and submission to the Legislature, a revision of the California Statewide Housing Plan. Such proposed revisions shall contain the following segments:

(a) A comparison of the housing goals for the preceding fiscal year with the amount of construction and rehabilitation achieved and housing assistance provided in such fiscal year.

(b) A revision of the minimum housing construction and rehabilitation goals specified in subdivision (b) of Section 41126 for the current year and projected four additional fiscal years ahead.

(c) A revision of the housing assistance goals specified in subdivision (c) of Section 41126 for the current year and projected four additional fiscal years ahead.

(d) A revision of the evaluation required by subdivision (a) of Section 41126 as new census or other survey data become available.

(e) An updating of recommendations for state action which will facilitate the attainment of housing goals established for California.

The Legislature may revise and shall adopt such annual updates to the California Statewide Housing Plan.

41128. The California Statewide Housing Plan developed pursuant to Section 41125 shall provide a data base for local housing

market studies and serve as a guide for local housing elements required by Section 65302 of the Government Code. It is also intended to serve as a state housing plan and provide a framework for local housing assistance plans meeting requirements of federal law.

41129. The goals and recommendations adopted for the California Statewide Housing Plan shall be published once adopted, and shall be republished as revisions are adopted Sufficient copies shall be made available for distribution to concerned persons throughout the state.

41130. The department shall develop a statewide farmworker housing assistance plan and related policies, goals and objectives for inclusion in the California Statewide Housing Plan.

41131. The department shall collect, publish, and make available to the public information about federal, state, and local laws regarding housing and community development. The department may provide a statistics and research service for the collection and dissemination of information affecting housing and community development.

41132. The department shall develop specifications for the structure, functions, and organization of a housing and community development information system for this state. Such system shall include statistical, demographic, and community development data which will be of assistance to local public entities in the planning and implementation of housing and community development programs.

The department shall, subject to the availability of moneys therefor, establish prototype housing and community development information systems in two or more counties or multiple-county areas. The department shall operate the prototype systems, or it may contract with one or more counties, or with one or more counties and with one or more cities, or with a regional agency including one or more counties for operation of one or more prototype systems and shall report to the Legislature thereon.

41133 The department shall assist and advise the Council on Intergovernmental Relations, or its successor, on the performance of functions specified in Sections 34212, 34213, and 34214 of the Government Code.

41134. The department shall adopt guidelines for the preparation of housing elements required by Section 65302 of the Government Code. The guidelines initially adopted shall conform as nearly as possible to the guidelines adopted by the commission June 17, 1971, and shall be adopted in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code. After consultation with the State Office of Planning and Research, the department may, from time to time, revise such guidelines

The department may review local housing elements for conformity with the requirements of Section 65302 of the Government Code and guidelines adopted pursuant thereto, and

report its findings. The department may, in connection with any loan or grant application submitted to the agency, require submission to it for review of any local housing element and any local housing assistance plan adopted pursuant to provisions of the Housing and Community Development Act of 1974 (P.L. 93-383).

41135. The department shall adopt guidelines relating to relocation assistance by public entities, as defined in Section 7260 of the Government Code, pursuant to the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. The department may provide consulting and technical assistance to such public entities in drafting and amending rules and regulations relating to relocation assistance pursuant to subdivision (e) of Section 7268 of the Government Code. The department may require such public entities to reimburse the department for such assistance as the department provides.

41136. The department shall issue guidelines for the preparation of affirmative plans by local public entities pursuant to Section 65008 of the Government Code.

41137. The department may initiate, develop, and propose regulations for adoption by the agency and review regulations proposed by the board prior to their taking effect, with respect to the following:

(a) Standards for affirmative marketing programs of housing sponsors seeking financial assistance from the agency.

(b) Criteria for certifying that the sale or conveyance of real property pursuant to Section 41395 or Section 41511 will primarily benefit persons and families of low or moderate income living in a housing development or a residential structure.

(c) Regulations permitting grants to be made by the agency to housing sponsors for the purpose of attaining affordable rents in housing developments financed by the agency. Such grants shall not be made with moneys derived from the sale of bonds.

(d) Regulations governing payments, procedures, and eligibility for relocation assistance for individuals and families displaced by actions of the agency or of housing sponsors of housing developments or neighborhood improvement loans

(e) Criteria for qualification of persons, families, and households as persons and families of low or moderate income or very low income households.

(f) Regulations establishing the maximum percentage of income which may be paid by persons and families of low or moderate income for rent within the meaning of the term affordable rent, as defined in Section 41023.

(g) Regulations designating geographical areas of need throughout the state for housing construction or rehabilitation, as identified in the California Statewide Housing Plan, identifying housing markets in which insufficient financing is available for purchase or rehabilitation of existing housing, identifying types of households with particularly severe housing needs, or establishing

priority criteria for the selection of homes and projects to be financed as housing developments or neighborhood improvement loans.

(h) Criteria for inclusion of nonhousing facilities in housing developments financed by the agency.

Regulations proposed by the agency in such areas of responsibility shall not take effect without concurrence of the director, the Secretary of the Business and Transportation Agency, or a representative of the secretary specifically designated for such review and approval.

41138. The department may certify local housing agents, and may periodically review, recertify, and decertify such local housing agents as provided in Section 41512.

CHAPTER 3. ASSISTANCE ACTIVITIES OF THE DEPARTMENT

41160. The department may, upon receipt of a request of a local public entity, provide advisory assistance or staffing for development of new and rehabilitated housing for persons and families of low or moderate income, the elderly, and persons displaced by governmental action, and in the development of programs to correct or eliminate blight and deterioration and to effect community development or redevelopment

The department may contract with a local public entity to provide any necessary staff services associated with, or required by, a local public entity and which could be performed by the staff of a redevelopment agency or housing authority.

The department may provide technical assistance in developing housing for students and faculty of universities and colleges upon the request of a potential housing sponsor, or at the request of the governing board or other agency of a university or college.

41161. The department may furnish counseling and guidance services to aid any governmental agency or any private or nonprofit organization or persons in securing the financial aid or cooperation of governmental agencies in the undertaking, construction, maintenance, operation, or financing of housing for Indians, farm laborers and their families, persons and families displaced by action of any state or local public entity, workers engaged in cutting, processing, milling, handling, or shipping lumber or lumber products, the families of such workers, the elderly and handicapped, and persons and families of low or moderate income. The department may contract for or sponsor, subject to the availability of federal funds, experimental or demonstration projects for permanently fixed or mobile housing designed to meet the special needs of agricultural workers, persons displaced by action of any local public entity, the handicapped, the elderly, Indians, and persons and families of low or moderate income. Such contracts or sponsorship agreements may be between the department and local public entities, private enterprise, or nonprofit organizations.

41162 The department shall encourage research and

demonstration projects to develop new and better techniques, including techniques of rehabilitation, for increasing the quality and supply of housing for persons and families of low or moderate income and may make grants or loans, with or without interest, in connection therewith.

41163. The department may adopt rules and regulations establishing a mutual self-help housing technical assistance program providing grants to nonprofit housing sponsors for carrying out programs of technical and supervisory assistance to aid persons and families of low or moderate income to develop mutual self-help housing.

41164. The department may make grants to nonprofit housing sponsors and local public entities for operating, administrative, and other expenses of planning, constructing, rehabilitating, and operating assisted housing and may make grants to housing sponsors for the benefit of residents of assisted housing in order to achieve lower rentals for some or all of the units within the assisted housing. Such grants may not be made with moneys derived from the sale of bonds.

41165. The department may enter into agreements to provide staffing to assist the Farmers Home Administration of the United States Department of Agriculture in the conduct of federal loan and grant programs for the provision of housing for persons and families of low or moderate income in this state.

41166. The department may conduct programs of rental subsidies for tenants of existing housing pursuant to Section 8 of the United States Housing Act of 1937, but may not submit any competitive application for operation of an existing housing program in a geographic area which includes a local public entity that has applied. However, in conducting subsidy programs pursuant to this section, the department shall not operate housing developments or engage in the purchase, lease, or sublease of housing developments.

41167. The department may, upon request by a local public entity, provide technical assistance of staffing for the purpose of developing applications and plans for community development funding pursuant to the Housing and Community Development Act of 1974 (P.L. 93-383).

41168. The department shall endeavor to obtain community development funds available under Title I of the Housing and Community Development Act of 1974 (P.L. 93-383). The department may, if federal funds are available, conduct an innovative neighborhood preservation program in cooperation with a local public entity.

41169 The department may provide technical assistance to any public entity or public utility undertaking construction, maintenance, operation, or financing of replacement housing designed for persons displaced because of the acquisition or clearance of real property for public purposes.

41170. The department shall develop and, subject to specific

authorization and appropriation by the Legislature or the availability of federal subsidies, implement demonstration subsidy programs to test the effectiveness of one or more housing subsidy programs for very low income households or other persons and families of low or moderate income. Such programs may include housing allowance payments, homeownership downpayment assistance, homeownership interest subsidy, leased housing subleased to very low income households, rent supplement payments on behalf of very low income households, or other types of subsidy programs.

41171. The department may provide potential housing sponsors and persons and families of low or moderate income such advisory consultative training and educational services as will assist them to become owners or tenants of housing financed under this division. Such training and services may include but are not limited to, technical and professional planning assistance, the preparation and promulgation of organizational planning and development outlines and guides, consultation services, training courses, seminars and lectures, the preparation and dissemination of newsletters and other printed materials, and the services of field representatives.

The department shall, subject to appropriation by the Legislature, or the availability of private, local governmental, or federal funds establish a program of such home management training for persons and families of low or moderate income who are occupants or potential occupants of assisted housing.

The department may provide potential housing sponsors of multiple-unit housing developments with advisory consultative training and educational services in the management of housing.

41172. The department may provide technical assistance and aid to governmental agencies and housing sponsors for the purpose of providing the benefits of assisted housing to very low income households and persons and families of low or moderate income in which the head of household has been previously confined to institutional care.

41173. The department may provide comprehensive technical assistance to tribal housing authorities, housing sponsors, and governmental agencies on reservations, rancherias, and on public domain to facilitate the planning and orderly development of suitable, decent, safe, and sanitary housing for American Indians residing in such areas. Such assistance may include technical assistance in land use planning, natural and environmental resource planning, and economic resource planning. Upon request of the governing body of a reservation or rancheria, the department may act on behalf of the tribal housing authority and perform the functions thereof and for such purpose shall have all the powers granted to housing authorities by Part 2 (commencing with Section 34200) of Division 13.

41174. The department shall take appropriate measures to assure that its services and publications are available to persons and families having limited fluency in the English language, in order to assure full

participation by such persons and families in programs administered by the department. Where a significant number of persons in a community have limited fluency in the English language, services and essential publications of the department shall be provided in the native language of such persons.

CHAPTER 4. ORGANIZATION OF THE COMMISSION

41200. There is hereby continued in existence in state government the Commission of Housing and Community Development, which shall consist of nine members.

41201. The members shall be appointed by the Governor for four-year terms, subject to confirmation by the State Senate. Members in office on the effective date of this division shall continue to hold office until the expiration of their terms, unless removed pursuant to Section 41202 or any other provision of law.

The term of an appointment to fill any vacancy created prior to the expiration of a term shall be for the unexpired term only. Each member shall continue to hold office after the expiration of his term until a successor has been appointed and qualified.

41202. The Governor has power to remove from office at any time, any members of the commission for continued neglect of duties required by law, or for incompetence, or dishonorable conduct. Nothing in this section shall be construed as a limitation or restriction on the power of the Governor, conferred on him by any other provision of law, to remove any member of the commission.

41203. The presiding officer of the commission shall be designated by the Governor from among the members and shall serve as presiding officer at the pleasure of the Governor.

41204. Each commission member shall receive a per diem of fifty dollars ($50) for each day actually spent in the discharge of official duties, and each shall be reimbursed for traveling and other expenses necessarily incurred in the performance of duties.

41205. The commission shall meet quarterly and at such other times and places as the commission may designate, for the purpose of transacting its business. Special meetings may be held at such times as the commission may elect, or on the call of the presiding officer of the commission, or on call of not less than four members thereof. The written notice of the time, place and object of such special meeting shall be made by the secretary to all the members not parties to the call, at least 15 days before the day of the meeting.

41206. The Director of Housing and Community Development shall serve as secretary of the commission and as such shall keep the minutes and records of all commission proceedings.

41207. The commission shall provide policy guidance to the Department of Housing and Community Development.

41208. The commission shall prepare and adopt such minimum standards regulating the use and application of cellular concrete as it determines are reasonably necessary for the protection of life and

property.

41209. Except where the department is specifically vested by this part or by any other provision of law with the authority to adopt rules and regulations, the commission may adopt, amend, and repeal rules and regulations reasonably necessary to carry out the provisions of this part or by any other provision of law. Any rules and regulations of the commission in effect on the effective date of this division shall remain in effect until amended or repealed.

PART 3. CALIFORNIA HOUSING FINANCE AGENCY

CHAPTER 1. ORGANIZATION

41300. The California Housing Finance Agency is hereby created in the Business and Transportation Agency. The agency constitutes a public instrumentality and a political subdivision of the state, and the exercise by the agency of the powers conferred by this division shall be deemed and held to be the performance of an essential public function.

41301. The agency shall be administered by a board of directors consisting of 11 voting members, including a chairperson. The State Treasurer, the Secretary of the Business and Transportation Agency, and the Director of Housing and Community Development, or their designees, shall be members, in addition to five members appointed by the Governor, one member appointed by the Speaker of the Assembly, and one member appointed by the Senate Rules Committee. The Director of Finance, the Director of the State Office of Planning and Research, and the president and the executive vice president of the agency shall serve as nonvoting ex officio members of the board.

41302. Appointed members of the board shall be able persons broadly reflective of the economic, cultural, and social diversity of the state, including ethnic minorities and women. However, it is not intended that formulas or specific ratios be applied in order the achieve such diversity. Of the members appointed by the Governor, one shall be an elected official of a city or county engaged in the planning or implementation of a housing, housing-assistance, or housing rehabilitation program; one shall be experienced in residential real estate in the savings and loan, mortgage banking, or commercial banking industry; one shall be experienced as a builder of residential housing; one shall be experienced in organized labor of the residential construction industry; and one shall be experienced in the management of rental housing occupied by lower-income households. At least one of such members appointed by the Governor shall be a resident of a rural or nonmetropolitan area. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a tenant living in rental housing financed by the agency or a person experienced in counseling, assisting, or representing tenants. The terms of the members initially appointed by the Governor, the Sen-

ate Rules Committee, and the Speaker of the Assembly shall be as follows:

(a) An elected official of a city or county engaged in the planning or implementation of a housing, housing-assistance, or housing rehabilitation program—two years appointed by the Governor.

(b) Member experienced in residential real estate in the savings and loan mortgage banking or commercial banking industry—four years appointed by the Governor.

(c) Member who is experienced as a builder of residential housing—six years appointed by the Governor.

(d) Member experienced in organized labor of the residential construction industry—two years appointed by the Governor.

(e) Member experienced in the management of rental housing occupied by lower-income households—four years appointed by the Governor.

(f) Member appointed by the Speaker of the Assembly who is a tenant living in rental housing financed by the agency or is experienced in counseling, assisting, or representing tenants—six years.

(g) Member appointed by the Senate Rules Committee who is a tenant living in rental housing financed by the agency or is experienced in counseling, assisting, or representing tenants—two years.

The term of any member of the board appointed to serve subsequent to the expiration of such an initial term shall be six years. Any person appointed to fill a vacancy on the board shall serve only for the remainder of the unexpired term. Successors to initially appointed members specified in subdivisions (f) and (g) shall be or shall have been tenants living in rental housing financed by the agency, if any exists. Members of the board shall, subject to continued qualification, be eligible for reappointment. If a member of the board ceases to meet the qualifications specified in this section, the membership of such person on the board shall be terminated.

41303. All members of the board appointed by the Governor shall be confirmed by the Senate.

41304. The representation of varied interest groups on the board shall be deemed essential to obtain information for the development of policy and decisions of the board. It shall not be a conflict of interest for an official of any local public entity or a tenant of any housing development, or a director, officer, stockholder, or employee of any savings and loan institution, investment banking firm, brokerage firm, commercial bank or trust company, architectural firm, insurance company, labor union, or any other person, association, or corporation to serve as a member of the board. When present at a meeting of the board, a board member shall be legally required to participate in the deliberations within the meaning of Section 87101 of the Government Code. If any board member has a financial interest, such interest shall be disclosed as a matter of official public record and shall be described with

particularity before the board member acts or participates in any way in deliberations affecting such interests.

If any board member has a financial interest, a conflict statement shall be filed pursuant to the regulations of the Fair Political Practices Commission and distributed to all other members of the board.

No board member of the agency may, however, vote on any matter in which the member has a financial interest.

Violations of this section shall constitute grounds for disqualification from office as a board member. Knowing or willful violation of the disclosure requirements of this section shall constitute a misdemeanor under Section 91000 of the Government Code. Pursuant to Section 91000, fines may be imposed for any such violation.

Within 60 days of the effective date of this division, the agency shall adopt a conflict of interest disclosure code pursuant to Sections 3703 and 3704 of the Government Code which shall remain in effect until a conflict of interest code has been adopted by the agency and approved by the Fair Political Practices Commission and is in effect pursuant to Article 3 (commencing with Section 87300) of Chapter 7 of Title 9 of the Government Code. Within 15 days of adoption of such code, each board member shall file a statement.

41305. (a) Except for the member specified in subdivision (a) of Section 41302 in his capacity as an official of a city or county, no member of the board and no officer or employee of the agency shall be employed by, hold any paid official relation to, or have any financial interest in, any housing sponsor or any housing development financed or assisted under this part. No real property to which a member of the board or an officer or employee of the agency holds legal title or in which such person has any financial interest shall be purchased by the agency or sold by such member of the board or officer or employee of the agency to a housing sponsor for a housing development to be financed under this part.

Any violation of this section shall be a conflict of interest which shall be grounds for disqualification of the member from the board or the officer or employee of the agency from his office or employment with the board or agency.

(b) Except as provided by subdivision (c), the following actions shall be voidable in the discretion of the agency:

(1) Any purchase by the agency of real property in which a member of the board or an officer or employee of the agency has legal title or a financial interest.

(2) Any commitment by the agency to provide financial assistance to a housing sponsor in which a member of the board or officer or employee of the agency is employed, holds any official relation, or has any financial interest.

(3) Any commitment by the agency to provide financial assistance to a housing sponsor to which real property has been or is transferred for a housing development to be financed under this

part, if a member of the board or officer or employee of the agency has or has had legal title or any financial interest in such real property.

(c) Any commitment by the agency to provide financial assistance under the circumstances specified in paragraph (2) or (3) of subdivision (b) shall not be voidable following release of the funds, but shall be grounds for acceleration of the loan or prospective termination of a contract of financial assistance.

41306. Board members shall be removable solely for cause.

41307. The Governor shall appoint a chairperson who, when present, shall preside at meetings of the board. The term of the chairperson shall be five years.

41308. The Governor shall appoint a president who shall serve for a term of five years as the chief executive officer of the agency and shall, subject solely to supervision by the board, administer and direct the day-to-day operations of the agency. The board shall from time to time determine the total number of authorized employees within the agency. The board shall determine the salaries of those employees of the agency whose salaries are not paid from moneys appropriated to the agency from the General Fund, other than moneys appropriated by the act enacting this division.

41309. The compensation of the president shall be established by the board in such amount as is reasonably necessary, in the discretion of the board, to attract and hold a person of superior qualifications. However, the salary of the president shall not exceed the salary of the Secretary of the Business and Transportation Agency. Members of the board shall not receive a salary but shall be entitled to a per diem allowance of fifty dollars ($50) for each day's attendance at a meeting of the board, not to exceed three hundred dollars ($300) in any month, and reimbursement for expenses incurred in the performance of their duties under this part, including travel and other necessary expenses.

41310. The president may from time to time employ technical experts and such other employees as may, in his judgment, be necessary for the conduct of the business of the agency.

41311. Notwithstanding the provision of Sections 11042 and 11043 of the Government Code, the president may employ as attorney for the agency an attorney at law licensed in this state. The attorney shall advise the board, the chairperson, and the president, when so requested, with regard to all matters in connection with the powers and duties of the agency and the board members and officers thereof. The attorney shall perform all duties and services as attorney to the agency which the agency may require of him.

Except as provided in Section 11040 of the Government Code, the Attorney General shall represent and appear for the people of the State of California and the agency in all court proceedings involving any question under this division or any order or act of the agency; provided, however, that the agency may also employ private counsel to assist in any such court proceeding.

41311.5. The Executive Secretary of the Housing Bond Credit Committee created pursuant to Section 41707 shall serve as the executive vice president of the agency and in such capacity shall be directly responsible to the president. The executive vice president shall provide liaison between the agency and the Housing Bond Credit Committee and shall perform such other duties as may be required by the president or the board. The agency shall reimburse the Housing Bond Credit Committee for any compensation paid by the committee to the executive secretary. The salary of the executive vice president of the agency shall not exceed the salary of the president.

41312. For its activities under this division the president shall prepare an annual budget to be reviewed by the Secretary of the Business and Transportation Agency and the Director of Finance at least 90 days prior to the close of the fiscal year and thereafter the chairperson shall present it for adoption to the board of directors with their comments.

41313. The board shall approve the sale of obligations or securities and other major contractual agreements and debt obligations. Any other contractual agreements or debt obligations may be approved by the president pursuant to regulations of the board.

Actions of the board may be taken only by a concurrence of a majority of the entire membership thereof.

41314. The principal offices of the agency shall be located in the City of Sacramento.

CHAPTER 2. PURPOSES AND GENERAL PROVISIONS

41331. The primary purpose of the agency shall be to meet the housing needs of persons and families of low or moderate income.

41332. In meeting the housing needs of persons and families of low or moderate income, not less than 30 percent of the units financed by mortgage loans or neighborhood improvement loans pursuant to this part shall be available to, or occupied by, very low income households at affordable rents, unless it is not possible to obtain subsidies necessary to meet such requirement. No development loan, rehabilitation loan, or construction loan shall be made pursuant to this part if the agency determines that its ability to utilize currently available subsidies to meet the requirements of this section would be jeopardized thereby.

41332.5. The agency shall also seek to attain the following objectives:

(a) Acquisition of the maximum amount of funds available for subsidies for the benefit of persons and families or low or moderate income occupying units financed pursuant to this part.

(b) Housing developments providing a socially harmonious environment by meeting the housing needs of both very low income households and other persons and families of low or moderate

income and by avoidance of concentration of very low income households that may lead to deterioration of a development.

(c) Emphasis on housing developments of superior design, appropriate scale and amenities, and on sites convenient to areas of employment, shopping, and public facilities.

(d) Increasing the range of housing choice for minorities of low income and low-income persons, rather than maintaining or increasing the impaction of low-income areas, and cooperation in implementation of local and areawide housing allocation plans adopted by cities, counties, and joint powers entities made up of counties and cities.

(e) Identification of areas of low-vacancy rates where construction is needed, of areas of substandard housing where rehabilitation is needed, and of areas of credit shortage where financing is needed for transfer of existing housing, so as to maximize the impact of financing activities on employment, reduction of housing costs, and maintenance of local economic activity.

(f) A balance between metropolitan, nonmetropolitan, and rural housing developments, and between family housing and housing for the elderly and handicapped, in general proportion to the needs identified in the statewide housing plan.

(g) Minimization of fees and profit allowances of housing sponsors so far as consistent with acceptable performance, in order to maximize the benefit to persons and families of low or moderate income occupying units financed by the agency.

(h) Full utilization of federal subsidy assistance for the benefit of persons and families of low or moderate income.

(i) Full cooperation and coordination with the local public entities of the state in meeting the housing needs of cities, counties, cities and counties, and Indian reservations and rancherias on a level of government that is as close as possible to the people it serves.

(j) Promoting the recovery and growth of economically depressed businesses located in areas of minority concentration and in mortgage-deficient areas.

41333. No provision of this division shall be construed as a restriction or limitation upon any powers which the agency or any local public entity might otherwise have under any laws of this state, and this part is cumulative with respect to any such powers. This division shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of a residential bonds and refunding bonds under the provisions of this part need not comply with the requirements of any other law applicable to the issuance of bonds; and in the construction or acquisition of a housing development or a residential structure pursuant to the provisions of this division, the agency need not comply with the requirements of any other law applicable to construction or acquisition of public works, except as specifically provided in this division. The agency

shall adopt regulations for review of construction contracts for the construction or rehabilitation of housing financed under this division. The agency shall require that on construction financed by a construction loan from the agency, other than mutual self-help housing developments, all workmen employed in such construction, exclusive of maintenance work, shall be paid not less than the general prevailing rate or per diem wages for work of a similar character in the locality in which the construction is performed, and not less than the prevailing rate of per diem wages for holiday and overtime work. The agency shall determine or require determination of the general prevailing rate of per diem wages in accordance with the standards set forth in Section 1773 of the Labor Code Apprentices shall be employed in the construction of housing developments in accordance with the regulations of the agency, which shall impose the same requirements as contained in Section 1777.5 of the Labor Code, except as to differences necessitated by the methods of awarding construction contracts for housing developments financed under this division.

41334. The exercise of the powers specified in this division will be in all respects for the benefit of the people of the state, for their well-being and prosperity, and for the improvement of their social and economic conditions, and the agency shall not be required to pay any tax or assessment on any property, other than a housing development, owned by the agency under the provisions of this division or upon the income therefrom. Any bonds issued by the agency under the provisions of this division, their transfer, and the income therefrom shall at all times be free from taxation by the state or any political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

41335. The agency and every housing sponsor shall require that occupancy of housing developments assisted under this part shall be open to all regardless of race, sex, marital status, color, religion, national origin, or ancestry, that contractors and subcontractors engaged in the construction of housing developments shall provide an equal opportunity for employment, without discrimination as to race, marital status, sex, color, religion, national origin, or ancestry, and that such contractors and subcontractors shall submit and receive approval of an affirmative action program prior to the commencement of construction or rehabilitation. Affirmative action requirements respecting apprenticeship shall be consistent with Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

All contracts for the management, construction, or rehabilitation of housing developments, and contracts let by housing sponsors, contractors, and subcontractors in the performance of such management, construction, or rehabilitation, shall be let without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry and pursuant to an affirmative action program, which shall be at not less than the Federal Housing Administration

affirmative action standards unless the board makes a specific finding that the particular requirement would be unworkable. The agency shall periodically review implementation of affirmative action programs required by this section.

It shall be the policy of the agency and housing sponsors to encourage participation with respect to all projects by minority developers, builders, and entrepreneurs in all levels of construction, planning, financing, and management of housing developments. In areas of minority concentration the agency shall require significant participation of minorities in the sponsorship, construction, planning, financing, and management of housing developments. The agency shall (1) require that, to the greatest extent feasible, opportunities for training and employment arising in connection with the planning, construction, rehabilitation, and operation of housing developments financed pursuant to this part be given to persons of low income residing in the area of such housing, and (2) determine and implement means to secure the participation of small businesses in the performance of contracts for work on housing developments and to develop the capabilities of such small businesses to more efficiently and competently participate in the economic mainstream. In order to achieve such participation by small businesses, the agency may, among other things, waive retention requirements otherwise imposed on contractors or subcontractors by regulation of the agency and may authorize or make advance payments for work to be performed. The agency shall develop relevant selection criteria for the participation of small businesses to insure that, to the greatest extent feasible, the participants possess the necessary nonfinancial capabilities. With respect to such small businesses the agency may waive bond requirements otherwise imposed upon contractors or subcontractors by regulation of the agency, but the agency shall in such case substantially reduce the risk through (1) a pooled-risk bonding program, (2) a bond program in cooperation with other federal or state agencies, or (3) development of a self-insured bonding program with adequate reserves.

The agency shall adopt rules and regulations to implement the provisions of this section.

Prior to commitment of financing, the agency shall require each housing sponsor, except with respect to an owner-occupied housing development or mutual self-help housing, to submit an affirmative marketing program which meets standards set forth in regulations of the agency. The agency shall require such a housing sponsor to conduct the affirmative marketing program so approved. Additionally, the agency shall supplement the efforts of individual housing sponsors by conducting affirmative marketing programs with respect to such housing at the state level.

41336. It shall be the policy of the agency to coordinate its activities with the department. It shall be the policy of the agency to conduct its operations so as to be fiscally self-sufficient and so as not to require appropriations from the General Fund for payment of

its administrative costs or to service bonds of the agency.

41337. No development or construction loan shall made pursuant to this part if the agency determines that the making of such a loan would result in the permanent loss of a subsidy or a reduction in future subsidies due to the failure of the agency to use currently available subsidies.

41338. Loans made pursuant to this part to housing sponsors, other than nonprofit housing sponsors, of rental housing developments shall not exceed 95 percent of the development costs of the housing development for which the loan is made. Loans made pursuant to this part to nonprofit housing sponsors shall not exceed 98 percent of development costs unless (1) the nonprofit housing sponsor has or will participate in the housing development with another nonprofit housing sponsor which has a significant past record of successful residential development and not more than 30 percent of the units in such housing development will be occupied by very low income family households, or (2) the housing development will be designed for occupancy by elderly or handicapped household. In evaluating the significance of the past record of a nonprofit housing sponsor for purposes of this section, the agency shall take into consideration exclusionary or discriminatory lending policies or practices of the mortgage finance industry or government mortgage programs which have limited the record of past housing production or development by the nonprofit housing sponsor.

41339. This division is intended to benefit purchasers and residents of housing developments who are persons and families of low and moderate income and shall be liberally construed to allow such persons to initiate civil actions and to enforce rights, duties and benefits under this division and regulations adopted pursuant to this division; provided however, this section shall not limit, modify or restrict the standing of other persons to initiate civil actions by reason of the action or inaction of the agency, department or commission.

CHAPTER 3. FINANCIAL PROVISIONS

41360. The California Housing Finance Fund is hereby created in the State Treasury.

Construction loan funds may be transferred to the construction lender or to the contractor as necessary to meet draws for progress payments pursuant to rules and regulations of the agency.

All money in the fund is hereby continuously appropriated to the agency for carrying out the purposes of this part, and, notwithstanding the provisions of Chapter 2 (commencing with Section 12850) of Part 2.5 of Division 3 of Title 2 of the Government Code or the provisions of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of such division, application of the fund shall not be subject to the supervision or budgetary approval of any other

officer or division of state government. However, the agency's budget shall be reviewed by the Secretary of the Business and Transportation Agency. Additionally, the agency's budget with the secretary's comments shall be submitted to the Joint Legislative Budget Committee for review and comment. The agency may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, bonds issued pursuant to this part, and, for such purpose or as necessary or convenient to the accomplishment of any other purpose of the agency, may divide the fund into separate accounts. All moneys accruing to the agency pursuant to this part from whatever source shall be deposited in the fund.

41361. Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the agency may create separate accounts in the fund to manage assets, revenues, or moneys in the manner set forth in such agreements.

41362. Subject to any agreements with holders of particular bonds, revenue derived pursuant to this part from neighborhood improvement loans and mortgage loans shall be deposited in a special account, which shall be used exclusively for the amortization of debt and the protection of the underlying security, until current debt service and reserves are funded.

41363. The agency shall from time to time direct the State Treasurer to invest moneys in the fund which are not required for its current needs, including proceeds from the sale of any bonds, in such eligible securities specified in Section 16430 of the Government Code as the agency shall designate. The agency may direct the State Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. Subject to any agreements with holders of particular bonds, and to the extent public deposits are permitted by law in each type of financial institution, the agency shall direct the State Treasurer to make such deposits based on the relative participation of the different types of financial institutions as qualified mortgage lenders. However, such allocations shall not be required to the extent that they would result in receipt by the agency of a deposit interest rate that is lower than the highest interest rate available from another institution qualified to receive such deposits. The agency may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3, Part 2, Division 4, Title 2 of the Government Code.

All interest or other increment resulting from such investment or deposit shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

41364. The agency is authorized to utilize such moneys as may be

appropriated to the fund from time to time by the Legislature for effectuating its purposes, including, but not limited to, the payment of the initial expenses of administration and operation, the establishment of reserves or contingency funds to be available for payments on the principal, interest, and sinking funds of any bonds of the agency and the direct payment of principal, interest and sinking funds on the bonds of the agency.

41365. The agency shall, within 90 days following the close of each fiscal year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of the Business and Transportation Agency, the Director of Housing and Community Development, the State Treasurer, and the Legislature. Within 90 days following the close of each fiscal year, the agency shall also submit an annual report to the Joint Legislative Audit Committee and the Joint Legislative Budget Committee. Each such report shall set forth a complete operating and financial statement of the agency during the concluded fiscal year. The report shall specify the number of units assisted, the distribution of units among the metropolitan, nonmetropolitan, and rural areas of the state, and shall contain a summary of statistical data relative to the incomes of households occupying assisted units, the monthly rentals charged to occupants of rental housing developments, and the sales prices of housing developments purchased during the previous fiscal year by housing sponsors who are persons or families of low or moderate income. The report shall also include a statement of accomplishment during the previous year with respect to the agency's progress, priorities, and affirmative action efforts. The agency shall specifically include in its report on affirmative action goals, statistical data on the numbers and percentages of minority sponsors, developers, contractors, subcontractors, suppliers, architects, engineers, attorneys, mortgage bankers or other lenders, insurance agents and managing agents. The agency shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the Department of Finance not more often than once each fiscal year.

Within 90 days following receipt of the agency's annual report, the Joint Legislative Audit Committee and the Joint Legislative Budget Committee shall submit a report on the agency's activities under this division to the Legislature.

41365.5. The president of the agency shall immediately certify in writing to the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, the Speaker of the Assembly, the Senate Rules Committee, and the Governor, if the agency determines or receives information, verified by the State Treasurer, that moneys of the agency will not be sufficient for the principal payments, sinking fund payments, and interest payments on bonds authorized under Chapter 7 and to restore and maintain the bond reserve funds provided for in Section 41713.

41366. Subject to any agreements with holders of particular bonds, all moneys available for carrying out the purposes of this part and declared by the agency to be surplus moneys which are not required to service or retire bonds issued on behalf of the agency, pay administrative expenses of the agency, accumulate necessary operating or loss reserves, or repay loans to the agency from the General Fund shall be used by the agency, with respect to existing housing developments, to provide special interest reduction programs, financial assistance for housing developments or subsidies for occupants or owners thereof, or counseling programs, as authorized by this division.

CHAPTER 4. GENERAL POWERS

41385. The agency shall have all of the following powers:

(a) To sue and be sued in its own name.

(b) To have an official seal and to alter the same at pleasure.

(c) To have perpetual succession.

(d) To maintain offices at such place or places within the state as it may designate.

(e) To adopt, and from time to time amend and repeal, by action of the board, rules and regulations, not inconsistent with the provisions of this part, to carry into effect the powers and purposes of the agency and the conduct of its business. Rules and regulations of the agency shall be adopted, amended, repealed, and published in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code. With respect to regulations in areas specified in Section 41137, the agency may propose regulations, but such regulations shall become effective only upon concurrence of the Secretary of the Business and Transportation Agency, or his designated representative, or the Director of Housing and Community Development.

(f) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this part with any governmental agency, private corporation or other entity, or individual, and to contract with any local public entity for processing of any aspect of financing housing developments.

(g) To acquire real or personal property, or any interest therein, on either a temporary or long-term basis in its own name by gift, purchase, transfer, foreclosure, lease, option, or otherwise, including easements or other incorporeal rights in property.

(h) To hold, sell, assign, lease, encumber, mortgage, or otherwise dispose of any real or personal property or any interest therein; to hold, sell, assign, or otherwise dispose of any mortgage interest owned by it, under its control or custody, or in its possession; and, as applicable, to do any of the acts specified in this subdivision by public or private sale, with or without public bidding, notwithstanding any

other provision of law.

(i) To release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in real property foreclosed by it.

(j) To determine the terms and conditions of any mortgage instrument, deed of trust, or promissory note used or executed in conjunction with the financing of any housing development.

(k) To employ architects, engineers, attorneys, accountants, housing construction and financial experts, and such other advisers, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(*l*) To provide advice, technical information, and consultative and technical service in connection with the financing of housing developments pursuant to this part.

(m) To procure insurance against any loss in connection with its property and other assets, including mortgages and mortgage loans, in such amounts and from such insurers as it deems desirable.

(n) To establish, revise from time to time, and charge and collect fees and charges in connection with loans made by the agency.

(o) To borrow money and issue bonds, as provided in this part

(p) To enter such agreements and perform such acts as are necessary to obtain federal housing subsidies for use in connection with housing developments.

(q) To provide bilingual staff in connection with services of the department and make available agency publications in a language, other than English, where necessary to effectively serve all groups for which such services or publications are made available.

(r) To require any individual, corporation, or other legal entity operating, managing, or providing maintenance services for a housing development or a residential structure to maintain a current certificate of qualification developed and approved by the agency.

(s) To do any and all things necessary to carry out its purposes and exercise the powers expressly granted by this part.

41386. The agency shall be a state representative for purposes of receiving and allocating financial aid and contributions from agencies of the federal government which are provided to the state or to the agency for the purpose of subsidizing housing for persons and families of low or moderate income and may utilize federal subsidies available to it in providing housing for persons and families of low or moderate income or for exercising any other of its powers. The agency shall have priority among all other units of state government for receipt of federal housing subsidies to the extent units financed under this part are eligible for such assistance.

41387. The agency may enter into agreements to provide staffing for the Farmers Home Administration of the United States Department of Agriculture in the conduct of federal loan, loan-guarantee, and grant programs for the provision of housing for persons and families of low or moderate income in this state. Staffing under this section shall not be paid for out of proceeds from the sale

of bonds.

41388. The agency may make and execute contracts with qualified mortgage lenders for the initiation or servicing of mortgage loans, construction loans, neighborhood improvement loan, or development loans made or acquired by the agency pursuant to this part or for other services rendered to the agency. The agency may pay the reasonable value of services rendered to the agency pursuant to such contracts.

41389. The agency may make or undertake commitments to make development loans, construction loans, mortgage loans, and neighborhood improvement loans to housing sponsors to finance housing developments, as provided in Chapter 5 (commencing with Section 41450) of this part.

The agency may, in conjunction with a construction loan, set aside a reserve to provide improvement security required under subdivision (c) of Section 66462 and Chapter 5 (commencing with Section 66499) of Division 2 of Title 7 of the Government Code, which shall be in lieu of improvement security otherwise required by such provisions.

41390. The agency may purchase and sell construction loans, mortgage loans, neighborhood improvement loans, obligations secured by such loans, and participation therein.

41390.5. Construction loans, mortgage loans, and neighborhood improvement loans made, purchased, assigned or serving as security for obligations or participations pursuant to this part shall be limited as to charges, interest, maximum loan amount, and maximum appraised value pursuant to regulations of the agency, which shall be consistent with the purposes of this part.

41391. Prior to the commitment of moneys under this part for the financing of a housing development as provided in Articles 1 to 4 inclusive, of Chapter 5 (commencing with Section 41450) of this part, the agency shall take adequate measures to assure (a) the economic feasibility of the housing development, (b) the financial eligibility of the housing sponsors and tenants, (c) the consistency of the proposed housing development with the current housing objectives of the agency, (d) the sufficiency of access of the housing development to supporting social services, transportation, schools, employment, and retail merchants, and (e) that the location of the proposed housing development is consistent with the agency's policies of dispersing housing developments throughout communities and of avoiding undue concentration of persons and families of low income. Wherever possible, the agency shall verify such facts before financing is committed.

In providing for dispersal of housing developments, the agency shall consider economic feasibility, which shall be determined in light of all relevant factors, including the assistance programs and funds which could be utilized to reduce costs. Nothing in this section shall prohibit the agency from financing housing developments in participating concentrated rehabilitation areas and participating

mortgage funds assistance areas in a manner that would otherwise be in conflict with the agency's policies respecting dispersal of housing developments or concentration of persons and families of low income, where necessary to accomplish the purposes for which financing is made available by the agency in such an area.

41392. (a) The agency may renegotiate, refinance, foreclose, or contract for the foreclosure of, any mortgage in default and may waive any default or consent to the modification of the terms of any mortgage. With respect to housing developments, the agency shall require that mortgage servicing and foreclosure practices, including forbearance and recasting of mortgages in default, conform to agency regulations.

(b) The agency may commence any action to protect or enforce any right conferred upon it by any law, mortgage, contract, or other agreement and may bid for and purchase property sold in satisfaction thereof at any foreclosure or other sale or may otherwise acquire and take possession of such property. Subject to any agreement with bondholders, the agency may operate, manage, lease, dispose of, and otherwise deal with such property in such manner as may be necessary to protect the interest of the agency and the holders of its bonds.

41393. The agency may procure insurance or coinsurance or guarantees from the federal government or from any governmental agency or instrumentality thereof, or from any private insurance company, of the payment of principal, redemption price of, and interest on any bonds issued by the agency. The agency may pay premiums on any such insurance.

41394. The agency may, for services performed, charge and collect from housing sponsors and qualified mortgage lenders such fees and charges for the purpose of defraying administrative and other expenses as the agency may establish from time to time for its lending and mortgage-purchase programs.

41395. The agency may sell or convey real property owned by the agency to persons and families of low or moderate income, nonprofit housing sponsors, and local public entities. Such sale or conveyance may be without consideration if the agency received the property upon condition that it be so conveyed or sold and if such sale or conveyance will inure primarily to the benefit of persons and families of low or moderate income living in a housing development.

41396. The agency shall establish criteria for housing sponsors and qualified mortgage lenders, which shall be designed to assure the financial integrity of programs authorized by this division and which shall provide for effective implementation of the policies and purposes set forth in this part. The criteria shall take into account the differences between private and public institutions qualifying as housing sponsors and qualified mortgage lenders.

41397. Relocation payments shall be made to persons and families of low or moderate income who are tenants displaced because of temporary or permanent displacement for rehabilitation work

assisted under this part, or rent increases resulting from rehabilitation, pursuant to the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (42 U.S.C., Sec. 4601) or Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. Notwithstanding the provisions of this section, moderate-income persons and families who decide against occupying the rehabilitated housing shall not continue to receive relocation payments.

The agency shall also insure that the relocation payments and the relocation advisory assistance specified therein shall be provided. Pursuant to the provisions of this section, the agency shall insure relocation payments are provided to persons and families involuntarily displaced in making a site or structure available for rehabilitation or construction financed under this part, or in the alternative may require the housing sponsor receiving a loan commitment pursuant to this part to make such payments and provide such assistance, whether such displacement has occurred in anticipation of the loan commitment or will occur subsequent thereto.

For purposes of this section, displacement includes relocation occurring because of a qualified person or family's inability to pay increased rentals resulting from rehabilitation, or involuntary temporary or permanent displacement of a qualified person or family to allow rehabilitation work to be done.

41398. The agency shall establish maximum sale prices for the initial sale of housing developments, the acquisition, construction, or rehabilitation of which is financed by the agency in anticipation of sale to persons and families of low or moderate income. The agency shall also establish a price for any owner-occupied housing development whenever the buyer of such housing development receives a mortgage loan from the agency. The maximum sale prices established by the agency pursuant to this section may provide a reasonable profit to the seller while serving the purposes of this division.

41399. The agency may make grants to nonprofit housing sponsors and local public entities to meet expenses incurred in planning, constructing, rehabilitating, or managing housing developments. The agency may make grants to housing sponsors for the purpose of lowering the rents or cooperative housing charges on some or all of the units within a housing development. Grants authorized by this section shall not be made with proceeds from the sale of bonds.

41400. The agency shall establish a grievance procedure or require housing sponsors to establish such a procedure, or both, for the purpose of resolving complaints by housing sponsors and tenants of housing sponsors and contractual disputes between two or more housing sponsors or between a housing sponsor and a tenant of such housing sponsor. Notwithstanding any other provision of law, no individual or family shall be evicted from a housing development

unless the following requirements are met:

(a) The eviction is for good cause as defined by rules and regulations of the agency.

(b) Eviction proceedings shall be commenced by the giving of notice as required by Section 1946 of the Civil Code or Section 1161 or 1161a of the Code of Civil Procedure and served as provided by Section 1162 of the Code of Civil Procedure. Such notice shall contain a statement of the cause for eviction and of the right of the tenant to a hearing and decision pursuant to regulations of the agency if a request for such a hearing is made to the landlord in writing within the period specified in Section 1946 of the Civil Code or Section 1161 of the Code of Civil Procedure, as the case may be.

(c) When the tenant so requests the landlord in writing within the period specified in Section 1946 of the Civil Code or Section 1161 of the Code of Civil Procedure, as the case may be, a hearing, in accordance with procedures established pursuant to regulations of the agency, shall be held by an impartial individual or panel selected or approved by the agency and a decision rendered within two weeks after receipt by the landlord of the tenant's written request for a hearing. Good cause for eviction shall be established at the hearing by the weight of the evidence. Before a right to a hearing vests, the tenant must pay rent for the two-week hearing period to the owner or to an escrow account of the agency, if not already paid.

A defendant in an unlawful detainer proceeding may assert as a defense the failure of the plaintiff or the agency to comply with the requirements of this section or regulations adopted pursuant to this section. A defendant in such a proceeding may assert as a defense that the findings at the hearing were not supported by the weight of evidence.

The costs of any hearing conducted pursuant to this section shall be assessed to, and paid by, the losing party as provided in regulations of the agency. If neither party prevails, the costs of the hearing shall be equitably apportioned.

41401. The agency shall adopt standards for the admission of tenants, termination of tenancies, and eligibility of purchasers of housing financed under this part as well as standards establishing maximum percentages of income which a tenant or purchaser may allocate to housing costs, which shall provide consideration for proven ability in individual cases to pay what would otherwise be an unusually high percentage of income for housing costs.

41402. Prior to authorizing a mortgage loan under Chapter 5 (commencing with Section 41450) of this part or a mortgage loan under Chapter 6 (commencing with Section 41550) of this part, if the loan under either such chapter is for the purchase of an owner-occupied housing development, the agency shall:

(a) Require an appraisal of the housing development be done by a competent and experienced appraiser.

(b) Establish a maximum sale price for the housing development pursuant to Section 41398, not in excess of appraised value.

(c) Require that the housing development be either newly constructed, recently rehabilitated, or certified by the local code enforcement agency, or the department to be in good condition.

(d) Require that the purchaser intend to occupy the housing development.

(e) Require that the loan bear below-market interest, except as otherwise provided in Chapter 6 (commencing with Section 41550) of this part.

(f) Require, notwithstanding Section 1916.5 of the Civil Code, that a mortgage payment schedule at market interest be substituted for an original payment schedule at below-market interest, when the borrower or a subsequent purchaser ceases to be a person or family of low or moderate income, and that additional payments of interest resulting therefrom be forwarded to the agency. The agency may waive the requirement of this subdivision when necessary to permit participation in mortgage insurance, guarantee, or purchase programs, or when this provision would interfere with the financial structuring or the administration of any bond financing program.

41403. The agency, after approving an application for a mutual self-help housing project, may make development loans and construction loans for land acquisition and development costs to eligible housing sponsors on such terms and conditions and in such amounts as it deems necessary to accomplish the purposes of this part. Such development loans and construction loans may be interest free if sufficient surplus funds exist for such purpose and such loans can be made without jeopardizing the financial self-sufficiency of the agency or the adequacy of its reserves. Land acquired and housing developments financed pursuant to this section shall be sold or conveyed to eligible housing sponsors or for the purpose of developing other mutual self-help housing.

In making loans pursuant to this section, the agency, as an alternative to disbursing such loans directly to eligible housing sponsors or persons and families of low or moderate income, may establish procedures retaining such loans or portions thereof, and disburse such amounts directly to the person or entity performing a service, or providing goods, material, land or improvements.

41404. The agency, by regulation, shall also assure that qualified mortgage lenders do not substitute funds made available under this part for the lenders' own resources, without permission of the agency. Qualified mortgage lenders may provide financing under this part until the agency makes a finding that the lender is in violation of this section or decertifies the lender pursuant to Section 41057.

CHAPTER 5. FINANCING OF HOUSING DEVELOPMENTS

Article 1. Loans for Housing Developments

41450. Subject to the limitations prescribed by Article 4 (commencing with Section 41475) of this chapter, the agency may make, or undertake commitments to make, development loans, construction loans, mortgage loans, and advances in anticipation of such loans to housing sponsors to finance housing developments.

41451. The agency shall make and publish rules and regulations respecting the making of development loans, construction loans, and mortgage loans pursuant to this part, the terms and conditions upon which such loans may be made to housing sponsors, the admission of tenants to a housing development, the inclusion of nonhousing facilities in housing developments, the construction of nonhousing facilities, and supervision of housing sponsors, including housing sponsors owning and occupying a housing development. Such regulations shall require, where a financing commitment is made for construction of housing to be purchased by persons and families of low or moderate income, that construction will be undertaken in an economical manner, providing the buyer with an attractive home.

41452. The agency shall enter into regulatory contracts and other agreements with housing sponsors receiving loans under the provisions of this part.

Article 2. Loans Through Intermediary Lenders and Mortgage Purchase and Sale

41455 The agency may invest in, purchase, or make commitments to purchase, and take assignments from qualified mortgage lenders of, construction loans, mortgage loans, obligations secured by construction loans or mortgage loans, and participations therein for financing or refinancing of housing developments

Such construction loans, mortgage loans, obligations secured by construction loans or mortgage loans, or participation therein may be held or sold by the agency, or the agency may create pools of such loans, obligations, and participations held by the agency and may sell securities backed by such pools.

41456. The agency may invest in, purchase, or make commitments to purchase any residential mortgage or any obligation secured by a residential mortgage or participation therein, and sell such obligations, residential mortgages, or participations or create pools of such obligations, residential mortgages, or participations held by the agency and issue and sell securities backed by such pools. The agency shall require the seller of such obligations, residential mortgages, or participations purchased by the agency to use the proceeds for the purpose of financing housing developments.

41457. The agency may insure or guarantee any obligation held by the agency and secured by a mortgage on a single-unit housing

development for the purpose of increasing its acceptability or value for sale or as security for other obligations. Nothing in this section shall, however, be construed as authorizing the creation of a debt or liability of the state within the meaning of Section 1 of Article XVI of the State Constitution.

41458. Sales of mortgage obligations and securities pursuant to this article may be made at public or private sale, with or without public bidding, whether directly or through a contract with a private marketing intermediary.

Article 3. Loans to Qualified Mortgage Lenders

41465. The agency may make loans to qualified mortgage lenders under terms and conditions requiring the proceeds thereof to be used by such mortgage lenders for the purpose of making construction loans and mortgage loans for the purpose of financing housing developments.

41467. Mortgage loans shall not be made under this article unless the agency determines that type of loan can be made at a lower cost to a housing sponsor than is available for the same type of loan made under the provisions of Article 1 (commencing with Section 41450), Article 2 (commencing with Section 41455) or Article 4 (commencing with Section 41475) of this chapter.

41468. Loans shall not be made by the agency to a qualified mortgage lender under the provisions of this article, except pursuant to an agreement between the agency and the qualified mortgage lender. Such agreements shall include the following:

(a) A maximum interest rate that can be charged for construction loans or mortgage loans.

(b) A recital of the requirements of loans for housing developments authorized by this part.

(c) Standards for mortgage servicing and foreclosure practices, including programs of forbearance and recasting for mortgages in default.

41469. In connection with loans made pursuant to this article, the agency may collect, enforce the collection of, and foreclose on any collateral securing the loans and may acquire or take possession of such collateral and sell the same at public or private sale, with or without public bidding, and otherwise deal with such collateral as may be necessary to protect the interest of the agency therein. The exercise of the powers specified in this subdivision shall be subject to any agreements with bondholders.

With respect to deposit of moneys in the fund pursuant to this section, the agency may require that any collateral provided on account thereof be lodged with a financial institution or trust company located in the state designated by the agency as custodian therefor. In the absence of such requirement the financial institution shall, if collateral is to be provided for the loan or securities purchased, upon receipt of the proceeds from the agency, enter into

an agreement with the agency containing such provisions as the agency shall deem necessary to adequately identify and maintain such collateral and service the same and shall provide that such financial institution shall hold such collateral as an agent for the agency and shall be held accountable as the trustee of an express trust for the application and disposition thereof and the income therefrom solely to the uses and purposes in accordance with the provisions of such agreement. A copy of each such agreement and any revisions or supplements thereto shall be filed with the Secretary of State and no further filing or other action under the California Uniform Commercial Code or any other law of the state shall be required to perfect the security interest of the agency in such collateral or any additions thereto or substitutions therefor, and the lien and trust for the benefit of the agency so created shall be binding from and after the time made against all parties having claims of any kind in tort, contract, or otherwise against such financial institution.

Article 4. Lender of Last Resort

41475. Except as provided in this article, the agency shall not make construction loans or mortgage loans for the purpose of financing owner-occupied housing developments unless such loans are made through a qualified mortgage lender.

41476. In rural mortgage areas the agency may make and undertake commitments to make construction loans and mortgage loans to housing sponsors to finance housing developments without the participation of a qualified mortgage lender if no qualified mortgage lender will participate in financing such housing developments as provided in Article 2 (commencing with Section 41455) or Article 3 (commencing with Section 41465) of this chapter, or if the board determines that the agency can initiate or service loans directly at less cost than through use of a qualified mortgage lender.

41477. The agency may make and undertake commitments to make construction loans and mortgage loans to finance owner-occupied housing developments without the participation of a qualified mortgage lender where the income of the owner-occupant is no greater than 65 percent of the median income for the area in which the housing development is located as determined by the United States Department of Housing and Urban Development or by the agency's reference to current data of the U S. Census Bureau. The income at 65 percent of median shall be based on a family of four with adjustments above and below such maximum to compensate for family size.

Article 5. Supervision of Housing Sponsors

41480. The agency shall do the following.

(a) Prescribe uniform systems of accounts and records for each

class of housing sponsors of rental and cooperative housing developments and require them to make reports and give answers to specific questions on such forms and at such times as may be necessary for the purposes of this part.

(b) Establish minimum capital reserves to be maintained by nonprofit and limited-dividend housing sponsors of rental and cooperative housing developments.

(c) Fix and alter from time to time a schedule of rents such as may be necessary to provide tenants who are persons and families of low or moderate income with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing development and to provide profits to housing sponsors subject to the limitations of Section 41482. Income from commercial facilities constituting a portion of a single housing development financed pursuant to this part shall, to the extent they receive the benefit of below-market-interest financing from the agency, assist in the support of appurtenant residential facilities. No housing sponsor shall increase the rent charged on any assisted rental unit of a housing development without the prior permission of the agency, which shall be given only if the housing sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing development or to provide the agreed rate of return with respect to additional equity money contributed by investors pursuant to Section 41482, and additional debt service and necessary operating costs with respect to increases in mortgage loans for improvements to the housing development deemed necessary by the agency.

Applications to the agency for permission to adjust rents shall include a statement of the existing and proposed rent for each unit a detailed statement of the necessity and authority for the increase under this subdivision, and the extent to which rent increases would be paid by tenants in assisted units and not offset by increased subsidy payments. Prior notice of any rent increase shall be given in writing as required by Section 1946 of the Civil Code. Prior to the time any rent increase is effective the housing sponsor shall notify every affected tenant, in writing, of informal meetings with the housing sponsor to review the proposed rent increase and that each tenant, upon request, will be provided the information submitted to the agency under this subdivision.

(d) Determine standards for, and control selection by housing sponsors of, tenants and purchasers.

(e) Regulate the terms of occupancy agreements to be used in housing financed under this chapter.

(f) Provide such bilingual services and publications, or require housing sponsors to provide such bilingual services and publications, as are necessary to ensure informed access to housing financed pursuant to this part for persons and families of low or moderate income who have limited fluency in the English language.

41481. The agency may do any of the following with respect to

housing sponsors of rental and cooperative housing financed pursuant to this part.

(a) Through its agents or employees, enter upon and inspect the lands, buildings, and equipment of a housing sponsor, including all parts thereof, and examine the books and records of a housing sponsor. However, there shall be no entry or inspection of occupied units without consent of the occupant.

(b) Supervise the operation and maintenance of any housing financed pursuant to this part and order such repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(c) Require any housing sponsor to pay to the agency such fees as it may prescribe to defray its costs incurred in connection with the examination, inspection, supervision, auditing, or other regulation of the housing sponsor.

(d) Regulate the retirement of any capital investments or the redemption of stock or the distribution of any equity interest in any housing sponsor.

(e) Order any housing sponsor to do, or to refrain from doing, any act, as may be necessary to comply with the provisions of state, federal, or local laws, the rules and regulations of the agency, or the terms of any contract between the agency and the housing sponsor.

(f) Withhold the transfer of construction payments to a housing sponsor pending adequate performance, as determined by the agency, of any acts required of such housing sponsor pursuant to the provisions of this division or pursuant to any agreement by and between the agency and such housing sponsor.

41482 Every housing sponsor of a rental or cooperative housing development which receives a construction loan or mortgage loan or a grant pursuant to this part shall enter into an agreement with the agency providing for the regulation of the disposition of property and the limitation of profit. Any housing sponsor of a rental housing development receiving a mortgage loan pursuant to this part, other than a nonprofit housing sponsor or local public entity, shall enter into an agreement including limitation of earnings distribution to an annual amount no greater than 6 percent of the equity invested in the housing development, unless a higher limitation on earnings distribution is otherwise provided by rules and regulations of the agency.

The agency may permit a distribution greater than 6 percent to investors contributing additional equity money to an existing housing development, or in the case of a housing development over which the agency has assumed managerial and financial control pursuant to Section 41483, or in any case where it would materially contribute to meeting the policies or goals of this division.

41483. Upon making a determination that the financial status of a rental or cooperative housing development is such as to jeopardize any economic interest of the agency in such housing development, the agency may assume managerial and financial control of the

housing sponsor and may supervise and prescribe the activities of the housing sponsor in such manner and under such terms and conditions as the agency may stipulate in any contract with the housing sponsor. Such control may be exercised through appointment by the agency to the governing body of such housing sponsor of a number of new members sufficient to constitute a voting majority of the governing body thereof, notwithstanding the provisions of the articles of incorporation or other documents of organization of the housing sponsor.

41484. The agency may prescribe regulations specifying the categories of cost which shall be allowable in the construction or rehabilitation of a housing development. The agency may require any housing sponsor to certify the development costs upon completion of the housing development. Such certification of development costs shall be subject to audit and verification by the agency.

41485. The agency may institute any action or proceeding pursuant to applicable provisions of law against any housing sponsor receiving or assuming a loan under the provisions of this part in any court of competent jurisdiction in order to enforce the provisions of this part or the terms and provisions of any contract between the agency and such housing sponsor, to foreclose its mortgage, or to otherwise protect the public interest or the occupants of the housing development. Where necessary to protect the interests of the agency, it may, in connection with any such action or proceeding, apply to the court for the appointment of a receiver to take over, manage, operate, and maintain the affairs of the housing sponsor of a rental or cooperative housing development. No receiver shall be appointed unless approved by the agency.

In the event of the reorganization of any housing sponsor, to the extent permitted by law, such reorganization shall be subject to the supervision and control of the agency and no such reorganization shall be effected without the prior written consent of the agency. The agency may provide in its loan agreements that, in the event of a judgment against any housing sponsor in any action to which the agency is not a party, there shall be no sale of the housing development or any portion thereof, except upon 60 days' written notice to the agency. Upon receipt of such notice, the agency or Attorney General shall take such steps as in its judgment may be necessary to protect the rights of all parties.

41486. Whenever a housing sponsor of a rental or cooperative housing development accumulates an earned surplus greater than such operating and replacement reserves as the agency may require, that surplus shall be used to reduce rents within the housing development to a level at which no person or family of low or moderate income occupying the housing development pays more than the affordable rent. Whenever a housing sponsor of a rental or cooperative housing development accumulates an earned surplus greater than such operating and replacement reserves as the agency

may require and no person or family of low or moderate income occupying the housing development pays more than the affordable rent, then such surplus shall be transferred to the agency for use in lowering the rents for persons and families of low or moderate income in other housing developments to a level no greater than the affordable rents.

41487 A housing sponsor that is a person or family of low or moderate income shall not receive financial assistance under this part if such person or family has already received assistance under this part for purchase of other real property, unless such property is sold or transferred for good cause as determined by the agency.

Article 6. Priorities

41495. In selecting proposals for financing, the agency shall give priority consideration to the needs of identifiable groups within the state, as identified by the California Statewide Housing Plan. Such groups may include, but need not be limited to the elderly and the handicapped, large households, and persons and families displaced by governmental action or natural disaster. The agency shall also consider rural areas, areas in which new construction is needed, areas in which rehabilitation is needed, and areas of credit shortage where financing is needed for the purchase of existing housing in order to maximize the impact of the agency's financial activities on employment, reduction of housing costs, and maintenance of local economic activity. The agency shall balance its activity between metropolitan, nonmetropolitan, and rural areas of the state in general proportion to the needs identified in the Statewide Housing Plan. The agency may also give priority consideration to, and reserve funds for use in connection with, large urban revitalization programs.

In order to facilitate implementation of local housing allocation plans, the agency may contract with a local public entity to reserve a portion of available credit and subsidy assistance for that area for one year. Such contracts may be renewed annually by mutual agreement.

41496. Subject to the availability of adequate subsidies, not less than 30 percent of the combined total units financed by mortgage loans and neighborhood improvement loans pursuant to this part during each fiscal year shall be made available on a priority basis to very low income households. Subject to the availability of adequate subsidies, not less than 20 percent of the units in each housing development shall be made available on a priority basis to very low income households except that such requirement shall not apply to housing developments of less than 12 units where the agency finds it is not necessary to make units available in the development for very low income households to meet the requirement of making 30 percent of total units available to very low income households. Units required to be made available on a priority basis pursuant to this

section, shall be offered exclusively to those within the priority group unless or until the agency permits the unit to be offered to other potential occupant groups

41497. At the close of each fiscal year the agency shall ascertain that not less than 25 percent of the total units financed during the preceding 12 months pursuant to this part were made available to very low income households. At the close of each fiscal year the agency shall ascertain that not less than 25 percent of all units financed pursuant to this part by mortgage loans or neighborhood improvement loans are occupied or available to very low income households. If the agency finds that said very low income occupancy goals have not been met the agency shall immediately notify the Governor, the Speaker of the Assembly, and the Senate Rules Committee and shall recommend such legislation or other action as may be required to make at least 20 percent of the units so available.

41498. At the time a mortgage loan commitment is made to finance any rental housing development, a written agreement between the agency and housing sponsor shall be executed, designating the number of units to be made available on a priority basis within such housing development to very low income households, to persons and families of low or moderate income, and to other households. If the number of units occupied by very low income households in any housing development ever falls below the number agreed to by the agency and housing sponsor, then units which become available for occupancy shall, subject to available subsidies be made available on a priority basis to very low income households until the number of units so occupied equals at least the number specified in the agreement. The agency may from time to time review agreements designating the allocation of units and, subject to agreement with the housing sponsor, may increase the number of units to be made available to very low income households if consistent with maintenance of the financial integrity of the housing development and continuance of permitted earnings distributions, or may establish minimum rents or minimum incomes for occupancy of units becoming vacant and not otherwise allocated to very low income households if necessary to the financial integrity of the housing development and continuance of permitted earnings distributions.

41499. Nothing in this part, including Section 41337, shall require the agency to allocate more than 25 percent of the units in any single housing development to very low income households, except housing designed for occupancy by elderly or handicapped households or housing developments of 12 units or less, with respect to which the board finds it necessary for the purposes of this division that such proportion be exceeded.

41500. Not less than 30 percent nor more than 40 percent of the units financed by the agency during each fiscal year for very low income households shall be designed specifically for occupancy by elderly or handicapped persons. The agency shall in each fiscal year,

finance at least that number of rental units designed for occupancy and accessibility by persons with orthopedic disabilities necessary to make such units equal to the same percentage relationship to the total number of rental units as such persons comprise when compared to the total population of the state. The percentage shall only, however, relate to those persons qualified by income and the percentage relationship shall be verified according to submarket areas within the state.

41501. The agency shall assist housing sponsors in obtaining subsidies. In selecting housing to be given assistance under this division, the agency shall give priority to those which are able to obtain subsidies but cannot obtain alternative financing in order to utilize such subsidies. The agency shall make every effort to obtain subsidy funds and nothing in this division shall preclude the agency from meeting the eligibility requirements for obtaining federal housing subsidy allocations.

41502. To implement the purposes of this division, the agency shall develop or require housing sponsors to develop, pursuant to regulations of the agency, resident selection plans for housing developments, which shall provide that preference be given to households displaced by a housing development, public action, or natural disaster. Such plans shall include criteria for resident selection, which shall establish income limits for residents, and may include a counseling program designed to promote the financial success of the housing development or the health, safety, and welfare of residents of the housing development. The agency may make participation in such a counseling program a condition or precondition of occupancy of a housing development. The agency may develop or require housing sponsors to develop, pursuant to regulations of the agency, resident selection plans for large urban revitalization programs which recognize a need to attract a full range of income groups for housing developments in central-city areas.

Article 7 State and Local Cooperation

41510. The agency may, in connection with a housing development, arrange or contract with a local public entity (1) for the planning, replanning, opening, grading, or closing of streets, roads, roadways, alleys or other places, (2) for the furnishing of utilities or any community, municipal or public facilities or services, (3) for the acquisition by a local public entity of property or property rights, or (4) for the furnishing of property or services. Any local public entity may, upon finding that a public purpose is served thereby, enter into such contractual agreements with the agency and to do all things necessary to carry out its obligations.

41511. Notwithstanding any other provision of law, the Department of General Services, any other state agency or officer authorized by law to convey real property of the state, and any local public entity may, in his or its discretion, from time to time sell, lease

for a term not exceeding 99 years, grant, or convey to the agency or to a housing sponsor designated by the agency any real property and appurtenances thereto or any interest therein owned by the state or local public entity which the agency shall certify as necessary for its purposes. Such certification of need shall be evidenced by a formal request from the president of the agency. Any such sale, lease, grant, or conveyance shall be made with or without consideration and upon such terms and conditions as may be mutually agreed upon by the state or local public entity and the agency. However, before any such sale, lease, grant, or conveyance is made at less than fair market value, the agency shall make a finding that the difference between the consideration required and fair market value will inure primarily to the benefit of persons and families of low or moderate income living in a housing development or a residential structure.

41512. (a) Upon application to the department, any city, county, city and county, or combination thereof acting jointly, or the duly constituted governing body of an Indian reservation or rancheria shall be certified as a local housing agent by the department if the department determines that the applicant meets the criteria specified in subdivision (b). If a local housing agent consists of more than one city, county, or city and county, each such entity shall individually meet the criteria of subdivision (b). All applications of prospective housing sponsors for loans or grants authorized by this part for housing developments or neighborhood improvement loans shall be reviewed by the local housing agent, if any, for the area in which the housing development or neighborhood improvement loan is to be financed. The local housing agent shall approve an application for a loan or grant for a housing development or a neighborhood improvement loan unless it expressly finds that the application does not meet one or more of the following criteria:

(1) The proposed housing development conforms with a housing element that meets the requirements of subdivision (b).

(2) The proposed housing development is consistent with the provision of a full range of housing opportunities within the jurisdiction of the local housing agent.

(3) The proposed housing development would be in compliance with applicable federal, state, and local laws, including laws prohibiting discrimination in housing.

An application shall be deemed approved if the local housing agent fails to approve or reject it within 40 days following the date of submission.

(b) A local housing agent shall meet all of the following criteria:

(1) The local housing agent shall have adopted a housing element, as required by subdivision (c) of Section 65302 of the Government Code, and an affirmative housing plan, if required by Section 65008 of the Government Code. The housing element shall not conflict with any housing assistance plan submitted to the federal government as part of an application to obtain funds for community development or housing.

(2) The housing element of the local agency shall make adequate provision for all economic and racial segments of the community in new and rehabilitated housing throughout its jurisdiction.

(3) The local housing agent shall develop or specify a procedure, which shall be identified in its application to the agency, to expedite the processing of zoning changes, use permits, building permits, environmental clearance, and any other type of permit, approval, or clearance which may be required by the city, county, or city and county or by any other local public entity or governmental agency prior to construction or rehabilitation of a housing development.

(c) No housing development shall be assisted by a loan authorized by this part, unless the housing development has received the approval of both the local housing agent and the agency. This subdivision shall not be applicable to housing developments proposed for areas in which there is no local housing agent.

(d) A local housing agent may delegate the function specified in this section to any local public entity, with the approval of the agency.

(e) At any time a local housing agent ceases to meet the criteria specified in subdivision (b), the department may decertify the local housing agent. Certification of the local housing agent shall be reviewed annually by the department. Recertification shall not be granted if the department finds that, during the preceding year, the local housing agent has unreasonably denied approval of applications or has ceased to perform its functions under subdivision (a).

41513. To facilitate coordinated planning on an intergovernmental basis, the agency shall provide an opportunity for review and comment by areawide clearinghouses under circular A-95 of the United States Office of Management and Budget. Subsequent amendments shall be reviewed to assure their conformity with the intent of this division. If such an areawide clearinghouse, within 30 days after receiving notification of a proposed housing development of over 25 units within its jurisdiction, notifies the agency that it disapproves of such housing development, the agency shall. prior to recordation of a loan to finance the housing development, provide to the areawide clearinghouse a written explanation of the board's reasons for proceeding despite such disapproval. No local agency shall be required to contribute money to be expended to pay the costs of the requirements of this section.

CHAPTER 6. NEIGHBORHOOD PRESERVATION

41550. This chapter empowers the agency to designate participating concentrated rehabilitation areas and participating mortgage funds assistance areas and to enter into agreements with local public entities for systematic code enforcement. It does not limit agency powers to provide construction loans and mortgage loans involving the rehabilitation of housing developments as

provided in Chapter 5 (commencing with Section 41450) of this part, nor does it prevent loans for new construction pursuant to Chapter 5 (commencing with Section 41450) in areas where financing is provided pursuant to this chapter.

41550.5. The agency shall, after public hearings, establish priorities for the allocation of financing assistance pursuant to this chapter among eligible areas and counties and cities throughout the state. In so doing, the agency shall take into account the following factors, to the extent applicable:

(a) The impact of financing assistance in upgrading substandard residential structures to decent, safe, and sanitary condition.

(b) The impact of financing assistance in stabilizing urban neighborhoods and preventing or arresting the process of deterioration.

(c) The impact of financing assistance in effectuating the efficient utilization of commitments of housing subsidies, thereby increasing housing opportunities for low and very low income households.

(d) The impact of financing assistance in complementing the local utilization of community development funds made available pursuant to Title 1 of the Housing and Community Development Act of 1974 (Public Law 93-383).

(e) The availability and feasibility of alternative means to achieve substantially the same results as financing assistance provided pursuant to this chapter.

41551. Upon application by a local public entity, the agency may designate an area within a city or county as a participating concentrated rehabilitation area if it makes the following findings:

(a) The area was selected after citizen participation by the governing body of the city or county in which the area is located.

(b) There are a significant number of older and deteriorating residential structures in such area requiring rehabilitation.

(c) Rehabilitation assistance is necessary to enable and encourage residents in such area to cooperate in a local program of concentrated code enforcement.

(d) Rehabilitation of residential structures will arrest deterioration in the area.

(e) Rehabilitation of residential structures in the area is economically feasible.

(f) The local public entity has offered to contract with the agency to (1) provide necessary supporting neighborhood public improvements and services, such as street improvements, landscaping and acquisition of open space, undergrounding of utility lines, and construction of drainage facilities in the area for which eligibility has been requested, and (2) provide concentrated and continuing enforcement of state and local housing and building standards in such area.

(g) The local public entity will make every effort to prevent unnecessary displacement in accomplishing rehabilitation and has an adequate program of relocation advisory assistance for persons

unavoidably displaced due to rehabilitation.

(h) The supply of housing available to very low income households at affordable rents and the supply of housing available to other persons and families of low or moderate income at affordable rents will not be reduced within the area because those displaced will receive relocation payments and be able to obtain standard housing in the area. Alternatively, standard housing will be available at affordable rents in equally desirable neighborhoods, expanding the range of housing opportunities for minority and low-income persons.

(i) The local public entity has adopted a housing element in compliance with Section 65302 of the Government Code with housing element guidelines which sets forth an effective plan for systematic enforcement of state and local building and housing standards throughout its jurisdiction.

(j) The application is consistent with local housing assistance plans adopted pursuant to the Housing and Community Development Act of 1974 (Public Law 93-383).

41552. Upon approval of an application for designation of an area as a participating concentrated rehabilitation area, the agency may either:

(a) Enter into an agreement with the local public entity for purchase by the agency of bonds and notes issued pursuant to Chapter 3 (commencing with Section 37930) of Part 13 of Division 24; or

(b) Enter into an agreement with the local public entity for a program of rehabilitation assistance as provided in Section 41553 or 41554, or both, to be administered by the local public entity; or

(c) Enter into an agreement with the local public entity for a program of rehabilitation assistance as provided in Section 41553 or 41554, or both, to be administered by the agency, except that the agency shall make mortgage loans only under the conditions of Chapter 5 (commencing with Section 41450).

41553. Financing assistance for housing developments in participating concentrated rehabilitation areas shall include any or all of the following types of loans:

(a) Development loans to prepare for rehabilitation.

(b) Mortgage loans for purchase of housing developments rehabilitated pursuant to rules and regulations of the agency

(c) Construction loans for rehabilitation, or for rehabilitation with acquisition or refinancing.

(d) Mortgage loans for rehabilitation, or for rehabilitation with acquisition or refinancing, where the cost of acquisition and rehabilitation or the cost of rehabilitation without refinancing exceeds the financial capability of the owner, or would result in rents which are not competitive for the area, as determined by the agency. For owner-occupied housing developments, the terms and interest rates of such mortgage loans shall be commensurate with ability to pay, as established by regulations of the agency.

41554. In adddition, neighborhood improvement loans may be

provided, on the following terms:

(a) Neighborhood improvement loans shall not be subject to the conditions applicable to mortgage loans or construction loans made for housing developments, except as follows:

(1) Residential structures financed shall be deemed to be housing developments, and their owners housing sponsors, for purposes of Chapter 1 (commencing with Section 41300) and Chapter 2 (commencing with Section 41331) of this part, but excluding Sections 41332.5 and 41338.

(2) All powers and duties specified in Chapter 4 (commencing with Section 41385) as to housing developments shall apply to residential structures financed by neighborhood improvement loans, except that the exercise of powers specified in Sections 41398 shall be permissive.

(3) Neighborhood improvement loans shall be subject to such conditions as may be provided by agreement between the agency and a local public entity administering the program and as provided for specifically in this part.

(b) Neighborhood improvement loans shall be made at market interest, except that loans to persons and families of low or moderate income for residential structures of one to four units which are to be occupied by the owner may be made at lower interest rates based on income

(c) Neighborhood improvement loans shall be made by the administering agency or local public entity or qualified mortgage lender.

(d) Neighborhood improvement loans shall be made only for residential structures.

(e) Refinancing may be provided, but only as necessary to permit the owner to afford the cost of rehabilitation or to minimize rent increases for occupants of the structure whose rents would otherwise exceed affordable rents due to the expense of rehabilitation, and provided that the cost of rehabilitation is at least 20 percent of the principal amount of the loan.

(f) Neighborhood improvement loans other than for refinancing shall be made for rehabilitation costs. In addition to the actual rehabilitation cost, if any, loans may be made for general repairs and improvements to the structure in amounts not in excess of the greatest of:

(1) Two thousand five hundred dollars ($2,500) per dwelling unit.

(2) Twenty percent of rehabilitation costs in the case of a residential structure other than a residential structure of one to four units to be occupied by the owner.

(3) Forty percent of rehabilitation costs in the case of a residential structure of one to four units to be occupied by the owner.

(g) The agency shall require that borrowers contract during the term of the loan not to raise residential rentals over an amount which the agency by regulation establishes will yield a fair rate of return and will allow for increases reasonably necessary to provide and

continue proper maintenance of the property, except that residential structures of one to four units which are to be occupied by the owner shall be regulated as to rentals in a manner consistent with subdivision (h) of Section 41551.

"Rehabilitation costs," as used in this section, may include development costs, as defined, which are incurred in the rehabilitation of a housing development or residential structure and such other costs for general renovation of the building as are permitted by agency regulations.

Nothing in this section shall authorize financing for the acquisition of residential structures. The agency may by regulation provide for such additional conditions and agreements, not inconsistent with this section, as are deemed necessary to further the purposes of this part.

41555. Relocation payments shall be made to persons and families displaced in making a site or a residential structure available for rehabilitation or construction financed under this chapter, and relocation advisory assistance provided, as set forth in Section 41397. Relocation payments shall also be made to owners involuntarily displaced because of inability to afford costs of compliance required pursuant to this chapter; but any payment pursuant to Section 4623 of Title 42 of the United States Code or Section 7263 of the Government Code shall be limited to the reasonable cost of a replacement dwelling adequate to accommodate the displaced person or family without regard to whether the dwelling is otherwise comparable to the dwelling formerly occupied, less the amount received from sale of the dwelling.

41556. The agency may designate a participating mortgage funds assistance area, after soliciting maximum feasible participation by local agencies and community organizations, if it makes the following findings:

(a) Market interest mortgage financing is generally unavailable in the area, or only under available special programs

(b) There is not a substantial number of residential structures in the area which do not conform to rehabilitation standards.

(c) Unavailability of mortgage funds is likely to be a primary cause of deterioration of structures located in the area in the future.

(d) Mortgage assistance in the area is likely to prevent or arrest deterioration in the area.

(e) Mortgage assistance in the area is economically feasible.

(f) The area was selected after citizen participation.

For the purposes of this section, the requirements under Section 41030 shall be limited to owners and residents of buildings proposed as participating residential structures.

(g) Agency activity in the area will inure primarily to the benefit of persons and families of low and moderate income.

41557. In a participating mortgage funds assistance area, the agency may administer programs of neighborhood improvement loans pursuant to Section 41554 and mortgage and construction loans authorized under Section 41553 in a manner consistent with Chapter

5 (commencing with Section 41450) of this part.

41559. Upon application by a local public entity the agency may agree to allocate funds for mortgage loans for rehabilitation of housing developments as required in a citywide or countywide program of enforcement of state and local building and housing standards. Such assistance may be administered by the local public entity or the agency.

CHAPTER 7. REVENUE BONDS

41700. The agency may from time to time issue its negotiable bonds in such principal amount as the agency, with the approval of the Housing Bond Credit Committee, shall determine to be necessary to provide sufficient funds for financing housing developments and other residential structures and for the payment of interest on bonds of the agency, establishment of reserves to secure such bonds, and other expenditures of the agency incident to, and necessary or convenient to, issuance of such bonds.

Issuance of the bonds of the agency shall be coordinated by the State Treasurer. To obtain a date for the issuance of bonds, the agency shall inform the State Treasurer of the amount of the proposed issue. Upon such notification, the State Treasurer shall provide three 10-day periods, within the 90 days next following, when the bonds could be issued, subject to approval of the Housing Bond Credit Committee. The agency may choose any date during the suggested periods or any other date to which the agency and the State Treasurer have mutually agreed. The State Treasurer shall sell the bonds on the date chosen according to terms approved by the agency.

The aggregate principal amount of nonguaranteed bonds which may be issued pursuant to this part shall not exceed three hundred million dollars ($300,000,000), exclusive of indebtedness incurred to refund or renew previously issued bonds of the agency to the extent of the outstanding principal indebtedness of such previously issued bonds, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. Guaranteed taxable bonds to be issued by the agency may be authorized in an amount not exceeding one hundred fifty million dollars ($150,000,000).

Notwithstanding any other provisions of this part, only the following types of housing developments and other residential structures are eligible for mortgage loans made with the proceeds of bonds:

(a) Housing developments and other residential structures financed with bonds of the agency guaranteed under Section 802 of Title VIII of the Federal Housing and Community Development Act of 1974.

(b) Housing developments and other residential structures financed with bonds of the agency that are guaranteed, or the timely

payment of principal and interest of which is insured, by an agency of the state or by a private insuring entity authorized to engage in such business.

(c) Housing developments and other residential structures, the mortgage loans on which are expected to be insured under a program utilizing federal coinsurance as authorized under Section 244 of Title III of the Federal Housing and Community Development Act of 1974 (P.L. 93-383).

(d) Housing developments and other residential structures, the bonds or mortgage loans on which are expected to be insured or guaranteed by an agency of the state, a political subdivision of the state, or by a private insuring entity authorized to engage in such business.

(e) Housing developments and other residential structures, the mortgage loans on which are expected to be insured by the Federal Housing Administration or guaranteed by the United States Veterans Administration or by the Farmers Home Administration of the United States Department of Agriculture.

(f) Housing developments and other residential structures financed by a loan made by the agency to a qualified mortgage lender, if both of the following conditions are met:

(1) The loan to the qualified mortgage lender is a general obligation of the mortgage lender, and

(2) The qualified mortgage lender is a member of, or a subsidiary of a member of, the Federal Deposit Insurance Corporation or of the Federal Savings and Loan Insurance Corporation.

(g) Housing developments and other residential structures financed by tax-exempt bonds for which a bond reserve fund is created which equals either the average annual debt service or the maximum annual interest on the bonds issued.

41702. Except as may otherwise be expressly provided by resolution of the agency, every issue of its bonds shall be general obligations of the agency payable out of any assets, revenues, or moneys of the agency, subject only to any agreements with the holders of particular bonds pledging any particular assets, revenues or moneys.

41703. The bonds shall be authorized by resolution or resolutions of the agency, shall bear such date or dates, and shall mature at such time or times as such resolution or resolutions may provide, except that no bond shall mature more than 50 years from the date of its issue. The bonds may be issued as serial bonds or as term bonds, or as a combination thereof, and, notwithstanding any other provision of law, the amount of principal of, or interest on, bonds maturing at each date of maturity need not be equal. The bonds shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places within or without the state, and be subject to such terms of redemption as such resolution or resolutions may

provide. The bonds of the agency shall be sold at public or private sale by the State Treasurer at or below such price level or levels as the agency shall determine prior to any sale or sales.

41703.5. The agency may, from time to time, issue (1) bonds to renew bonds and (2) other bond obligations to pay bonds including the interest thereon, and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured and to issue bonds partly to refund bonds then outstanding and partly for any of its purposes.

41704. Any resolution or resolutions authorizing any bonds or issue therefor may contain provisions, which shall be a part of the contract or contracts with the holders thereof, as to:

(a) Pledging all or any part of the revenues of the agency to secure the payment of the bonds or any issue thereof, subject to such agreements with bondholders as may then exist.

(b) Pledging all or any part of the assets of the agency, including mortgages and obligations securing the same, to secure the payment of the bonds or any issue thereof, subject to such agreements with bondholders as may then exist.

(c) The use and disposition of the gross income from mortgages owned by the agency and payment of principal of mortgages owned by the agency.

(d) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(e) Limitations on the purposes to which the proceeds of a sale of bonds may be applied and pledging such proceeds to secure the payment of the bonds or of any issue thereof.

(f) Limitations on the issuance of additional bonds, the terms upon which additional notes or bonds may be issued and secured, and the refunding of outstanding bonds.

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(h) Limitations on the amount of moneys to be expended by the agency for operating expenses of the agency.

(i) Vesting in a trustee or trustees such property, rights, powers, and duties in trust as the agency may determine, which may include any or all of the rights, powers, and duties of the trustee appointed by the bondholders pursuant to this part and limiting or abrogating the right of the bondholders to appoint a trustee or limiting the rights, powers, and duties of such trustee.

(j) Defining the acts or omissions to act which shall constitute a default in the obligations and duties of the agency to the holders of the bonds and providing for the rights and remedies of the holders of the bonds in the event of such default, including as a matter of right the appointment of a receiver. However, such rights and remedies shall not be inconsistent with the general laws of the state and the other provisions of this division.

(k) Any other matters, of like or different character, which in any way affect the security, protection, or investment return of the holders of the bonds.

41704.5. Any resolution or resolutions authorizing any bonds or issue thereof shall specify the extent to which revenues resulting from loans made with proceeds of the bonds so authorized are to be used to secure the bonds and the extent to which such revenues may be used for other purposes.

41705. Any pledge made by the agency shall be valid and binding from the time when the pledge is made. The revenues, moneys, or property so pledged and thereafter received by the agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the agency, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

41705.5. Bond underwriters and consultants shall be selected by the agency.

41706. The members of the board, the president of the agency, or any other person executing such notes or bonds shall not be subject to any personal liability or accountability by reason of the issuance thereof.

41707. There is hereby created a Housing Bond Credit Committee composed of the State Controller, the State Treasurer, the Director of Finance, the president, and an executive secretary The executive secretary shall be appointed by the Governor to a five year term subject to confirmation by the Senate. The executive secretary shall serve in a full-time capacity with a salary set by the committee. The executive secretary shall aid the committee in the performance of its duties under this chapter, as directed by the committee, and shall perform the functions specified in Section 41311.5. The members of the committee other than the executive secretary shall serve on the committee without compensation. A majority shall be empowered to act for such committee. Prior to the issuance of any bonds, the board shall submit to the committee a statement of the purpose for which bonds are proposed to be issued and the amount of the proposed issuance. The committee shall determine the general adequacy of the program's security in protecting the state's credit. If the committee finds the state's credit would be subject to an undue risk, it may disapprove the proposed issuance or reduce the amount of the proposed issuance.

41708. The State Treasurer shall act as trustee for the agency and the holders of its bonds. Any resolution authorizing any bonds or issue thereof shall prescribe the duties of the State Treasurer with respect to the issuance, authentication, sale, and delivery of the bonds, the payment of principal and interest thereof, and the redemption of the bonds.

The agency may provide by a resolution for the deposit of all revenues pledged for the security of such bonds in one or more separate accounts in the California Housing Finance Fund under the control of the State Treasurer as trustee. The money in such accounts shall be disbursed only as provided in the resolution.

The board may authorize the State Treasurer to act as trustee on behalf of the holders of its bonds, or any stated percentage thereof, for the purpose of exercising and prosecuting on behalf of the holders of the bonds such rights and remedies as may be available to such holders. However, nothing in this section shall preclude the appointment of a trustee, other than the State Treasurer, to represent and enforce rights of holders of bonds of the agency if, and in the manner and under conditions, provided in the resolution authorizing the bonds.

Additionally, the board may appoint a corporate trustee to act as trustee pursuant to this section in lieu of the State Treasurer in any instance in which the board is advised by bond counsel that a conflict of interest would arise from the Treasurer acting as such trustee.

41709. The State Treasurer or other trustee acting on behalf of bondholders shall have and possess all the powers necessary or convenient for the exercise of any functions specifically set forth in this part or incident to the general representation of bondholders in the enforcement and protection of their rights. The Superior Court of Sacramento County shall have jurisdiction of, and Sacramento County shall be the appropriate venue for, any suit, action, or proceedings by the trustee on behalf of bondholders.

41710. Whether or not the bonds are of such form and character as to be negotiable instruments under, or subject to, the terms of the California Uniform Commercial Code, the bonds and any security instruments underlying the bonds are hereby made negotiable instruments within the meaning of, and for all the purposes of, such code, subject only to the provisions of the bonds for registration.

41711. In the event any of the board members or officers of the agency whose signatures appear on any bonds or coupons shall cease to be such board members or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such board members or officers had remained in office until such delivery.

41712. Proceeds derived from the issuance of bonds or securities and any interest or other increment derived from the investment thereof may be used for any of the purposes of the agency, including, but not limited to, creation of reserves, repayment of the loan from the state made pursuant to the act enacting this division, operating costs, other expenses, and subsidy programs.

41713. The agency, in its discretion and pursuant to agreements with bondholders, may create and establish one or more special accounts in the California Housing Finance Fund, which shall be known as "bond reserve funds," and shall pay into each such bond reserve fund (1) any moneys appropriated and made available by

the Legislature for the purpose of such fund, (2) any proceeds of sale of bonds to the extent provided in the resolution or resolutions of the agency authorizing the issuance thereof, and (3) any other moneys which the agency may make available for the purpose of such bond reserve fund from any other source or sources. All moneys held in any bond reserve fund, except as otherwise provided in this part, shall be used, as required, solely for the payment of the principal of bonds secured in whole or in part by such fund, for the sinking fund payments authorized by this part with respect to such bonds, for the purchase or redemption of such bonds, for the payment of interest on such bonds, or for the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. However, moneys in a bond reserve fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of the bond reserve fund to less than the bond reserve fund requirement established for such fund, as provided in Section 41714, except for the purpose of making, with respect to bonds secured in whole or in part by such fund, payment when due of principal, interest, redemption premiums, and the sinking fund payments, as provided in this part, for the payment of which other moneys of the agency are not available. Any income or interest earned by, or increment to, any bond reserve fund due to the investment thereof may be transferred by the agency to other funds or accounts of the agency to the extent it does not reduce the amount of the bond reserve fund below the bond minimum bond reserve fund requirement for such fund.

In computing the amount of bond reserve funds for the purpose of this section, securities in which all or a portion of such funds are invested shall be valued at par if purchased at par, and shall be valued at amortized value, as such term is defined by resolution of the agency, if purchased at other than par.

41714. The agency shall not at any time issue bonds if, upon issuance of the bonds, the amount in any bonds reserve fund, established pursuant to Section 41713 to secure such bonds or any previous issuance of bonds, will be less than the minimum bond reserve fund requirement for such fund, unless the agency at the time of issuance of such bonds, shall deposit in such fund from the proceeds of the bonds to be issued, or from other sources, an amount which, together with the amount then in such fund, will not be less than the bond reserve fund requirement for such fund. For the purposes of this chapter, the term "bond reserve fund requirement" shall mean, as of any particular date of computation, an amount of money, as provided in the resolution or resolutions of the agency authorizing the bonds with respect to which such bond reserve fund is created, that is established as a reserve for current or future obligations to the bondholders.

41715. The Supplementary Bond Security Account is hereby created in the California Housing Finance Fund. Moneys in such account may be transferred into separate, individual accounts in the

fund, which shall be know as supplementary reserve accounts, but the amount appropriated to the Supplementary Bond Security Account shall be utilized to secure issuances of bonds under this chapter as deemed necessary by the agency and shall be used for no other purpose. Upon issuance of any bonds pursuant to this chapter, the agency may create a supplementary reserve account to secure payment of the principal of, and interest and sinking fund payment on, such bonds.

When all obligations secured by all supplementary reserve accounts are retired, the Supplementary Bond Security Account shall be dissolved and all moneys therein shall be used first for repayment to the General Fund in the State Treasury of the amount advanced to the Supplementary Bond Security Account by the act enacting this division, less any amount previously repaid on account of such advance. Remaining funds shall be paid into the general accounts of the housing finance agency unless otherwise obligated.

When the amount in a bond reserve fund falls below the minimum bond reserve fund requirement for such fund and available revenues of the agency pledged to the prescribed minimum bond reserve fund requirement are insufficient to restore such fund, the agency shall transfer to the bond reserve fund, from the supplementary bond reserve account securing such bonds, the amount necessary to restore such fund to the minimum bond reserve fund requirement. Moneys in supplementary reserve accounts may be used to directly pay the interest, principle and sinking fund payments on the bonds as provided by bond resolution. To secure issuances of bonds, the supplementary reserve accounts may also be used to insure mortgages to protect the value of the housing developments or other residential structures serving as real property security in any manner permitted by bond resolution.

If the issuance of bonds of the state, as provided in Part 4 (commencing with Section 41800) of this division, is approved by the voters, all moneys in the Supplementary Bond Security Account shall, upon replacement by general obligation bond proceeds, be transferred to the general accounts of the housing finance agency. The agency shall then transfer to the General Fund in the State Treasury the remaining amount necessary to repay the Treasury for the appropriation to the Supplementary Bond Security Account.

Notwithstanding other provisions of this part, interest on the ten million dollars ($10,000,000) appropriated for the Supplementary Bond Security Account shall be paid to the General Fund at the end of each fiscal year.

41716. The agency shall create and establish such other accounts in the California Housing Finance Fund as may be necessary or desirable for its agency purposes.

41717. The agency may provide for the issuance of refunding bonds for the purpose of refunding any bonds then outstanding which have been issued under the provisions of this chapter, including the payment of any redemption premium thereon and any

interest accrued or to accrue to the date of redemption of such bonds, and for any purpose of the agency. The issuance of such obligations, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the agency in respect of the same shall be governed by the provisions of this chapter which relate to the issuance of bonds, insofar as such provisions may be appropriate therefor.

41718. Refunding bonds issued as provided in Section 41717 may be sold or exchanged for outstanding bonds issued under this part and, if sold, the proceeds thereof may be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of such outstanding bonds. Pending the application of the proceeds of any such refunding bonds, with any other available moneys, (1) to the payment of the principal, accrued interest, and any redemption premium on the bonds being refunded, (2) to the payment of any interest on such refunding bonds, or (3) to any expenses incurred in connection with such refunding, such proceeds may be invested in such obligations as are permitted under the bond resolution authorizing the issuance of refunding bonds.

41719. The state does hereby pledge to and agree with the holders of any bonds issued under this part that the state will not limit or alter the rights hereby vested in the agency to fulfill the terms of any agreements made with the holders thereof or in any way impair the rights and remedies of such holders until such bonds, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. The agency is authorized to include this pledge and agreement of the state in any agreement with the holders of such notes or bonds.

41720. Bonds issued under the provisions of this part shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the agency, or a pledge of the faith and credit of the state or of any such political subdivision, other than the agency, but shall be payable solely from funds herein provided therefor. All such bonds and any prospectus or other printed representation of the agency concerning such bonds shall contain on the face thereof a statement to the following effect: "Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of or interest on this bond."

The issuance of bonds under the provisions of this part shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing contained in this section shall prevent or be construed to prevent the agency from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this part.

41721. The bonds of the agency shall be legal investments in which all public officers and public bodies of this state, its political

subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, banking institutions, including savings and loan associations, building and loan associations, trust companies, savings banks and savings associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds may be used by any such private financial institution, person, or association as security for public deposits. The bonds are also hereby made securities which may properly and legally be deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law, including deposits to secure public funds.

PART 4. HOUSING FINANCE BOND LAW OF 1975

41800. This part shall be known and may be cited as the Housing Finance Bond Law of 1975.

41801. Bonds in the total amount of five hundred million dollars ($500,000,000), or so much thereof as is necessary, may be issued and sold to provide a fund to be used by the California Housing Finance Agency to finance housing developments and other residential structures, as authorized in this division, for the primary purpose of increasing the availability of housing within this state for persons and families of low or moderate income, and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. However, the proceeds of the bonds shall first be used to repay to the General Fund in the State Treasury the amount advanced to the Supplementary Bond Security Account established by Part 3 of this division, less amounts already repaid on account of such advance at the time of the issuance of the bonds and, to the extent required by Section 41806.5, proceeds shall be transferred to the Housing Rehabilitation Insurance Fund. Such bonds shall be known and designated as the State Housing Finance Bonds, and when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California are hereby pledged for the punctual payment of both principal and interest on such bonds as such principal and interest become due and payable.

The state shall not have outstanding at any one time general obligation bonds specified in this part in an aggregate principal amount exceeding five hundred million dollars ($500,000,000), excluding bonds issued to refund outstanding bonds.

41802. The Housing Bond Credit Committee created by Section 41707, upon the request of the board stating the purposes for which bonds are proposed to be issued and the amount of the proposed issuance, shall determine whether or not a bond issue under this part is necessary or desirable to accomplish such purposes. The committee shall have the authority and shall perform the functions specified in the State General Obligation Bond Law, Chapter 4 (commencing with Section 16720) of Part 3, Division 4, Title 2 of the Government Code.

41803. There shall be collected each year and in the same manner and at the same time as other state revenue is collected such sum in addition to the ordinary revenues of the state as shall be required to pay the principal and interest on the bonds maturing in that year, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of such revenue to do and perform each and every act which shall be necessary to collect such additional sum.

41804. There is hereby appropiated from the General Fund in the State Treasury for the purposes of this part, such an amount as will equal the following:

(a) Such sum annually as will be necessary to pay the principal and interest on bonds issued and sold pursuant to the provisions of this part as such principal and interest become due and payable.

(b) Such sum as is necessary to carry out the provisions of Section 41805, which sum is appropriated without regard to fiscal years.

41804.5. The General Obligation Bond Account is hereby created in the California Housing Finance Fund.

41805. For the purposes of carrying out the provisions of this part, the Director of Finance may by executive order authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds which have been authorized to be sold for the purposes specified in Section 41801. Any amounts withdrawn shall be deposited in the General Obligation Bond Account in the California Housing Finance Fund, and any moneys made available in such a manner shall be returned to the General Fund from moneys received from the sale of bonds sold for such purposes.

41806. The proceeds of bonds issued and sold pursuant to this part shall be deposited in the General Obligation Bond Account in the California Housing Finance Fund and may be expended only for the purposes specified in this division. Any interest or other increment resulting from the deposit or investment of moneys in the General Obligation Bond Account shall be deposited in such account. Moneys derived by the agency from financing housing developments with the proceeds of bonds issued pursuant to this part shall be deposited in such account. Notwithstanding any other provision of this division, moneys in the General Obligation Bond Account and moneys, property, and mortgages derived therefrom shall not be pledged to secure any obligation of the agency created pursuant to Chapter 7

(commencing with Section 41700) of Part 3 of this division.

41806.5. Within 120 days after the agency sells general obligation bonds pursuant to this part, there shall be transferred from the proceeds of such bonds to the Housing Rehabilitation Insurance Fund created by Senate Bill No. 4 of the 1975–76 First Extraordinary Session, if enacted, an amount which, as of the date of such transfer, is equal to that amount of money deposited, and required to be maintained, in the loan insurance reserve account or accounts of the Housing Rehabilitation Insurance Fund for the purpose of securing commitments and contracts of insurance for loans made or assisted pursuant to Part 3 (commencing with Section 41300) of this division. For general obligation bond funds transferred to the Housing Rehabilitation Insurance Fund pursuant to this section, the amounts necessary for the payment of principal, interest, and sinking fund payments on such bonds shall be transferred from the Housing Rehabilitation Insurance Fund to the General Obligation Bond Account to the extent reserves and working capital of the Housing Rehabilitation Insurance Fund would not be impaired.

41807. On the several dates on which funds are remitted pursuant to Section 16676 of the Government Code for the payment of the then maturing principal and interest on the bonds in each fiscal year, there shall be returned into the General Fund in the State Treasury moneys from the General Obligation Bond Account in the California Housing Finance Fund in an amount which is sufficient for the payment of principal and interest on the bonds then due and payable, if, and to the extent that, the transfer of such moneys from the General Obligation Bond Account in the California Housing Finance Fund will not unreasonably impair the working capital of the California Housing Finance Agency. In the event moneys transferred from the General Obligation Bond Account in the California Housing Finance Fund to the General Fund on such remittance dates are less than the principal and interest then due and payable with respect to the bonds, then the balance remaining unpaid, together with interest thereon at the rate borne by such bonds compounded semiannually from the date of maturity, shall be returned into the General Fund out of the General Obligation Bond Account in the California Housing Finance Fund as soon thereafter as it shall become available, without unreasonable impairment of the working capital of the agency.

41808. The bonds authorized by this part shall be prepared, executed, issued, sold, paid and redeemed as provided in the State General Obligation Bond Law, Chapter 4 (commencing with Section 16720) of Part 3, Division 4, Title 2 of the Government Code, and all of the provisions of that law are applicable to the bonds and to this part, and are hereby incorporated in this part as though set forth in full herein.

41809 As used in this part and for purposes of the State General Obligation Bond Law, Chapter 4 (commencing with Section 16720) of Part 3, Division 4, Title 2 of the Government Code, the following

terms shall have the following meanings:

(a) "Bond" means a state general obligation bond issued pursuant to this part and known as a state housing finance bond.

(b) "Board" means the Board of Directors of the California Housing Finance Agency.

(c) "Committee" means the Housing Bond Credit Committee created by Section 41707.

(d) "Fund" means the General Obligation Bond Account in the California Housing Finance Fund created by Section 41804.5.

SEC. 8. A special election is hereby called to be held throughout the state on the second day of November, 1976. The special election shall be consolidated with the general election to be held on that date. The consolidated election shall be held and conducted in all respects as if there were only one election and only one form of ballot shall be used. Except as otherwise provided in this act, all of the provisions of law relating to the submission of measures proposed by the Legislature shall apply to the measure submitted pursuant to this act. A ballot pamphlet shall be prepared, compiled and distributed relating to the Housing Finance Bond Law of 1975 as set forth in Part 4 (commencing with Section 41800) of Division 31 of the Health and Safety Code, as proposed by this act. The Secretary of State shall distribute the ballot pamphlets to the county clerks not later than 45 days before the election, and the county clerks shall commence to mail such pamphlets to the voters not less than 15 days before the election. The distribution of ballot pamphlets in all respects shall be conducted in accordance with the provisions of Section 3573 of the Elections Code.

SEC. 9. At the special election called by this act there shall be submitted to the electors Part 4 (commencing with Section 41800) of Division 31 of the Health and Safety Code, as proposed in this act, which shall appear as the first proposition on the ballot. All provisions of this act shall control the submission of Part 4 (commencing with Section 41800) of Division 31 of the Health and Safety Code, as proposed by this act, and the holding of, the special election called by this act.

SEC. 10. Upon the effective date of this section, arguments for and against the measure hereby ordered submitted to the electors shall be prepared in time, form and manner as provided in Article 1.8 (commencing with Section 3527) of Chapter 1 of Division 4 of the Elections Code.

SEC. 11. The special election provided for in this act shall be proclaimed, held, conducted, the ballots shall be prepared, marked, collected, counted and canvassed and the results shall be ascertained and the returns thereof made in all respects in accordance with the provisions of the Constitution applicable thereto and the law governing general elections insofar as provisions thereof are applicable to the election provided for in this act; provided, however, that the Governor need not issue his election proclamation until 30 days before the election.

SEC. 12. Notwithstanding any other provision of law, all ballots at said election shall have printed thereon and in a square thereof, the words: "For the Housing Finance Bond Law of 1975" and in the same square under said words the following in eight-point type: "This act provides for a bond issue of five hundred million dollars ($500,000,000) to provide funds for financing housing." In the square immediately below the square containing such words, there shall be printed on said ballot the words, "Against the Housing Finance Bond Law of 1975," and in the same square immediately below said words, in eight-point type shall be printed "This act provides for a bond issue of five hundred million dollars ($500,000,000) to provide funds for financing housing." Opposite the words "For the Housing Finance Bond Law of 1975," and "Against the Housing Finance Bond Law of 1975," there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against said act, and those voting for said act shall do so by placing a cross opposite the words, "For the Housing Finance Bond Law of 1975," and those voting against the act shall do so by placing a cross opposite the words "Against the Housing Finance Bond Law of 1975," provided, that where the voting of such election is done by means of voting machines used pursuant to law in such manner as to carry out the intent of this section, such use of such voting machines and the expression of the voters' choice by means thereof, shall be deemed to comply with the provisions of this section. The Governor of this state shall include the submission of this act to the people, as aforesaid, in his proclamation for such election.

SEC. 13. The votes cast for or against the Housing Finance Bond Law of 1975 shall be counted, returned and canvassed and declared in the same manner and subject to the same rules as votes cast for state officers; and if it appears that said act shall have received a majority of all the votes cast for and against it at said election as aforesaid, then the same shall have effect as hereinbefore provided, and shall be irrepealable until the principal and interest of the liabilities herein created shall be paid and discharged; but if a majority of the votes cast as aforesaid are against the Housing Finance Bond Law of 1975 then the same shall be and become void.

SEC. 14. Upon the effective date of this section the Secretary of State shall request the Legislative Analyst to prepare an analysis of the measure in accordance with Section 88003 of the Government Code. Such analysis shall be filed with the Secretary of State within the time specified in the Elections Code.

SEC. 15. Section 8 of Chapter 1222 of the Statutes of 1965 is repealed.

SEC. 16. It is the intent of the Legislature that Section 15 of this act shall have the effect of making permanent the transfer of the Division of Housing and of other functions to the Department of Housing and Community Development effected by Chapter 1222 of the Statutes of 1965 and that the status, position and rights of persons serving in the state civil service and employed by the Commission

of Housing and Community Development or the Department of Housing and Community Development shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

SEC. 17. The sum of eleven million three hundred forty-nine thousand eight hundred seventeen dollars ($11,349,817) is hereby appropriated from the General Fund according to the following schedule:

(a) To the California Housing Finance Agency for its initial expenses	$750,000
(b) For transfer to the Supplementary Bond Security Account in the California Housing Finance Fund	$10,000,000
(c) To the Department of Housing and Community Development for its expenses under this act	$599,817

Moneys advanced pursuant to subdivision (a) of this section shall be deposited in the California Housing Finance Fund within 10 days after the date on which this act becomes effective, and shall be repaid from revenues of the agency not later than January 1, 1986.

Such moneys advanced pursuant to subdivision (a) shall constitute, and be accounted for, as advances to the agency and a like amount shall be repaid to the General Fund in the State Treasury, without interest, from all available operating revenues of the California Housing Finance Agency in excess of amounts required for the payment or securing of bonds or other reserves or obligations of the agency or for its current operating expenses.

SEC. 18. For 150 days following the effective date of this act:

(1) The California Housing Finance Agency may provide financing or other assistance under the provisions of Division 31 (commencing with Section 41000) of the Health and Safety Code for housing developments and other residential structures within a proposed concentrated rehabilitation area without making the findings otherwise required by Section 41551 if prompt action is necessary to obtain federal housing subsidies; (2) The board of directors of such agency may adopt interim rules and regulations without regard to the requirements in subdivision (e) of Section 41385 which rules and regulations shall apply to housing developments and other residential structures financed by the agency pursuant to applications submitted during such 150-day period. Interim regulations of the agency pursuant to Division 31 (commencing with Section 41000) of the Health and Safety Code also need not comply with requirements of the Administrative Procedure Act, except that they shall be published and available to the general public. Comments shall be requested on the interim regulations as a basis for producing permanent regulations. By mutual agreement of the agency and any housing sponsor, any provision of the permanent regulations may be substituted for a provision of the interim regulations after the effective date of the

permanent regulations.

CHAPTER 2

An act to add Part 5 (commencing with Section 42000) to Division 31 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor July 9, 1975 Filed with Secretary of State July 10, 1975]

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

SECTION 1. Part 5 (commencing with Section 42000) is added to Division 31 of the Health and Safety Code, to read:

PART 5. BOND AND LOAN INSURANCE

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

42000. The Legislature finds and declares as follows:

(a) For reasons of prudent investment policy, private lending institutions are not making mortgage financing available for residential structures located in many older residential neighborhoods, or for certain housing developments occupied or intended to be occupied by substantial numbers of persons and families of low and moderate income because of the perceived risks such loans entail. The lack of such financing has caused and contributed to deterioration of residential neighborhoods, inhibited local governments in their attempts to arrest and reverse deterioration through local code enforcement programs, and generally reduced or limited the supply of safe, decent, and sanitary housing available to persons and families of low and moderate income.

(b) By the enactment of the Marks-Foran Residential Rehabilitation Act of 1973 (Part 3 (commencing with Section 37910) of Division 24), the state has authorized local agencies, redevelopment agencies, and housing authorities to provide financing for preservation of residential structures in deteriorating areas. However, some of such local public entities will be unable to sell revenue bonds pursuant to such act on terms sufficiently favorable to enable them to make loans at less than the market-rate interest because of a lack of adequate bond security.

(c) The agency, although it is empowered to sell revenue bonds in order to raise funds for housing assistance, may be unable to market such bonds on terms and at interest rates adequate to enable the agency to accomplish its purposes.

42001. It is the intent of the Legislature in enacting this part to

establish a program of bond and loan insurance to encourage and facilitate the preservation of existing housing and improve housing opportunities for persons and families of low or moderate income by reducing the risk factor (1) for loans for housing in older deteriorating areas and (2) for revenue bonds issued by local agencies, redevelopment agencies, and housing authorities pursuant to the Marks-Foran Residential Rehabilitation Act of 1973.

It is further the intent of the Legislature in enacting this part to improve the marketability of revenue bonds sold by the agency by providing for insurance of loans made or assisted by the agency for new construction of housing developments located in participating mortgage funds assistance areas.

42002. The agency shall require that occupancy of housing for which a loan is insured pursuant to this part shall be open to all regardless of race, sex, color, religion, national origin, or ancestry, and that contractors and subcontractors engaged in the construction or rehabilitation of housing funded by a loan insured pursuant to this part shall provide an equal opportunity for employment without discrimination as to race, sex, marital status, color, religion, national origin, or ancestry.

42003. Unless the context otherwise requires, the definitions contained in this chapter shall govern the construction of this part.

Such definitions shall be in addition to definitions set forth in Part 1 (commencing with Section 41000) of this division, except that, where the same term is defined in this chapter and in such part, the definition of such term contained in this chapter shall prevail.

42004. "Approved lending institution" means a qualified mortgage lender approved by the agency for participation in a program of loan insurance, including such successors and assigns of any such institution as are permitted by regulation of the agency. "Approved lending institution" shall also include the agency to the extent lending is permitted under Chapter 5 (commencing with Section 41450) of Part 3.

42005. "Bond reserve requirement" means an amount specified by regulations of the agency which shall, as of any particular date of computation, be at least equal to the total of (1) insurance benefits due and payable as of such date under contracts of bond insurance and (2) 5 percent of the sum of the aggregate insurance outstanding under contracts of bond insurance and the aggregate amounts to be insured under the agency's commitments to insure bonds.

42006. "Bonds" means bonds issued pursuant to Part 13 (commencing with Section 37910) of Division 24.

42007. "Citizen participation" means action by the local agency to provide persons who will be affected by rehabilitation within a participating concentrated rehabilitation area or participating community improvement area with opportunities to be involved in planning and carrying out the rehabilitation program. "Citizens participation" shall include, but not be limited to, all of the following in the order provided below:

(a) Holding a public meeting prior to the hearing by the local governing body considering selection of the proposed participating concentrated rehabilitation area or participating community improvement area.

(b) Consultation with an elected or appointed citizen advisory board, composed of representatives of both owners of property in, and residents of, the proposed participating concentrated rehabilitation area or participating community improvement area, in developing a plan for public improvements and implementation of the rehabilitation program.

(c) Dissemination, seven days prior to the original hearing, by mailing to property owners within the proposed participating concentrated rehabilitation area or participating community improvement area at the address shown on the latest assessment roll and by distribution to residents of the area by a manner determined appropriate by the local agency, of information relating to the time and location of meetings, boundaries of the proposed area, and a general description of the proposed rehabilitation program. With respect to a proposed community improvement area, such notice shall be sent only to property owners in the area who will be subject to the proposed rehabilitation program.

In addition to the requirements of subdivisions (a) to (c), inclusive, any other means of citizen involvement determined appropriate by the legislative body of the local agency may be implemented.

Public meetings and consultations held to implement the requirements of citizen participation shall be conducted by a planning or rehabilitation official designated by the legislative body of the local agency. Public meetings shall be held at times and places convenient to residents and property owners.

42008 "Insurance Fund" means the Housing Rehabilitation Insurance Fund.

42009. "Insurance reserve requirement" means an amount specified by regulations of the agency, which shall, as of any particular date of computation, be at least equal to the total of (1) insurance benefits due and payable as of such date pursuant to contracts of loan insurance and (2) 5 percent of the sum of the aggregate insurance outstanding under contracts of loan insurance and the aggregate amounts to be insured under the agency's commitments to insure loans.

42010. "Insured loan" means a loan insured pursuant to Chapter 4 (commencing with Section 42060) of this part.

42011. "Legislative body" means the city council, board of supervisors, or other legislative body of the local agency.

42012. "Loan-to-value limitation" means a limitation on the ratio of the original principal balance of a loan to the appraised value of the property securing it.

42013. "Local agency" means a city, county, or city and county.

42014. "Participating community improvement area" means an

area designated by the agency pursuant to Section 42048.

42015. "Participating concentrated rehabilitation area" means an area designated by the agency pursuant to Section 42047.

42016. "Participating mortgage funds assistance area" means an area designated by the agency pursuant to Section 42049.

42017. "Qualified rehabilitator" means a housing sponsor which is certified by the agency to be qualified according to experience, financial capability, and such other pertinent criteria as the agency may establish, to carry out rehabilitation with loans insured pursuant to this part.

42018. "Rehabilitated structure" means a residential structure which becomes eligible for an insured acquisition loan by rehabilitation conducted pursuant to rules and regulations of the agency, whether or not loan insurance is provided by the agency for such rehabilitation.

42019. "Rehabilitation standards" means applicable state or local housing or other standards the purpose of which is to insure that residential structures are in decent, safe, and sanitary condition, including any higher standards adopted by a local agency in connection with a program of code enforcement utilizing rehabilitation loans insured under this part.

CHAPTER 2. ADMINISTRATION

42025. The board shall appoint an advisory committee to assist it in preparing regulations providing for the implementation and administration of this part which shall consist of nine members as follows:

(a) Two members having experience in the administration of (1) a local program of housing rehabilitation undertaken for a period of at least two years, which included local housing code enforcement and provided funds to owners of buildings by a local governmental entity for such rehabilitation, or (2) a program of housing rehabilitation undertaken for a period of at least two years pursuant to the Housing Act of 1964 (P.L. 88-560).

(b) One member experienced in the financial aspects of local or federal housing rehabilitation programs described in subdivision (a).

(c) One city or county planning representative of local government with experience in local or federal housing rehabilitation programs described in subdivision (a).

(d) Two representatives of private financial institutions knowledgeable in the areas of finance, mortgage insurance, and local or federal housing rehabilitation programs described in subdivision (a).

(e) One member with a vocational background in real estate transfers, including real estate appraisal.

(f) Two public members.

42026. Members of the advisory committee established pursuant to Section 42025 shall be reimbursed for their travel and other

expenses necessary to the performance of their duties under this part. The advisory committee shall meet as soon as possible after the effective date of this section at the time and place designated by the board. The advisory committee shall provide advisory and consultative aid to the agency until two years shall have elapsed from the first insurance of loans under Chapter 4 (commencing with Section 42060) of this part, at which time the advisory committee shall be dissolved.

42027. The agency shall, with respect to the implementation of this part, have the general powers set forth in Sections 41385 and 41392 and, in addition, may do any and all things necessary to carry out its purposes and exercise the powers expressly granted by this part. The agency shall develop and maintain complete and current statistics and other information with respect to the loan insurance program, including, but not limited to, statistics and information relating to the following:

(a) Financial market conditions, including the interest rates, payback periods, and other terms and conditions affecting such housing.

(b) The character, extent, and actual costs of construction or rehabilitation undertaken during each phase of the program.

(c) Factors affecting, and statistics showing, the extent and utilization of each phase of the program.

(d) Factors affecting the processing time of applications and statistics showing processing times actually experienced for each phase of the program.

(e) Mortgage arrearages, defaults, and foreclosures on insured mortgage loans and expenses incurred as a result of such arrearages, defaults, and foreclosures.

(f) The extent of displacement of persons and the extent and amount of rental increases resulting from insurance of loans, together with measures taken to minimize such displacement and rental increases.

(g) The extent, character, and location of areas throughout the state which have a significant deficiency in the availability of mortgage financing.

(h) The extent and location of housing in the state which is deteriorating or in danger of deteriorating, and the nature and costs of repairs and improvements necessary to arrest such deterioration and restore the housing to decent, safe, and sanitary condition.

(i) Abuses of the program and actions taken in connection therewith.

42028. Information and statistics required to be collected and maintained by Section 42027 shall be submitted together with the annual report required by Section 41365.

42029. (a) The agency may contract with any private or public agency for review of the administration of this part and for assistance in developing regulations to implement this part. The agency shall be responsible for the planning, implementation, functioning, and

evaluation of the program of loan and bond insurance.

(b) Not less than once every two years after the effective date of this part, the agency shall contract for an independent evaluation of the program of loan and bond insurance authorized by this part. The report of such evaluation shall include an evaluation of program effectiveness in relation to cost and shall include recommendations and suggested legislation for the improvement of the program, if any. A copy of such report shall be transmitted to the Legislature.

42030. The Housing Rehabilitation Insurance Fund is hereby created in the State Treasury. All money in the insurance fund is hereby continuously appropriated to the agency without regard to fiscal year for the purpose of insuring loans and bonds pursuant to this part and for the purpose of defraying administrative expenses incurred by the agency in operating such programs of loan and bond insurance. All insurance premiums and other moneys accruing to the agency pursuant to this part shall be deposited in the insurance fund.

42031. Notwithstanding the provisions of Chapter 2 (commencing with Section 12850) of Part 2.5 of Division 3 of Title 2 of the Government Code or the provisions of Article 2 (commencing with Section 13320) of Chapter 3 of Part 3 of such division, application of the insurance fund shall not be subject to the supervision or budgetary approval of any other officer or division of state government. However, the agency's budget respecting such fund shall be reviewed by the Secretary of the Business and Transportation Agency. Additionally, such budget shall be submitted, with the Secretary's comments, to the Joint Legislative Budget Committee for review and comment.

42032. The agency shall from time to time direct the State Treasurer to invest moneys in the insurance fund which are not required for its current needs in such eligible securities specified in Section 16430 of the Government Code as the agency shall designate. The agency may direct the State Treasurer to deposit moneys in the insurance fund in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. To the extent public deposits are permitted by law in each type of financial institution, the agency shall direct the State Treasurer to make such deposits based on the relative participation of the different types of financial institutions as qualified mortgage lenders. However, such allocations shall not be required to the extent that they would result in receipt by the agency of a deposit interest rate that is lower than the highest interest rate available from another institution qualified to receive such deposits. The agency may alternatively require the transfer of moneys in the insurance fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3, Part 2, Division 4, Title 2 of the Government Code.

All interest or other increment resulting from such investment shall be deposited in the insurance fund, notwithstanding Section 16305.7 of the Government Code Moneys in the insurance fund shall

not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except the Surplus Money Investment Fund as provided in this section.

42033. There is hereby created a loan insurance reserve account in the insurance fund to secure commitments under contracts to insure loans. The agency shall take all reasonable steps to assure that the reserve account is continuously maintained at not less than the insurance reserve requirement. The agency shall not cause sums to be withdrawn from the loan insurance reserve account in amounts which would reduce the moneys therein to less than the insurance reserve requirement, except as necessary to satisfy liabilities arising under contracts of loan insurance. In the event that the loan insurance reserve account is reduced to less than the insurance reserve requirement, the agency shall cease making commitments for, and contracts of, insurance until such time as the reserve account has been restored to such requirement.

42034. There is hereby created a bond insurance reserve account in the insurance fund to secure commitments under contracts to insure bonds. The agency shall take all reasonable steps to assure that the bond reserve account is continuously maintained at not less than the bond reserve requirement. The agency shall not cause sums to be withdrawn from the bond insurance reserve account in amounts which would reduce the moneys therein to less than the bond reserve requirement, except as necessary to satisfy liabilities arising under contracts of bond insurance. In the event that the bond insurance reserve account is reduced to less than the bond reserve requirement, the agency shall cease making contracts of bond insurance until such time as the account has been restored to such requirement.

42035. The agency may create other accounts within the insurance fund as necessary or convenient to carry out the purposes of this part.

42036. The obligation of the agency and of the state to pay any insurance benefit pursuant to contracts of insurance insuring loans or bonds shall not exceed amounts deposited in the insurance fund which are made available therefor under the respective contracts of insurance. Nothing in this part shall require the Legislature to appropriate moneys from the General Fund in the State Treasury to the Housing Rehabilitation Insurance Fund on account of any such obligation.

Moneys in the insurance fund may not be transferred to any other fund of the agency, except as required by Section 41806.5 and except as necessary to pay the expenses of operating the program of loan and bond insurance authorized by this part, nor shall the agency utilize any moneys under the direction and control of the agency, other than moneys in the insurance fund, to satisfy liabilities arising from contracts of insurance authorized by this part.

CHAPTER 3. ELIGIBLE AREAS

42045. The agency shall, after public hearings, establish priorities for the allocation of loan-insurance assistance among eligible areas throughout the state. In so doing, the agency shall take into account the following factors, to the extent applicable:

(a) The impact of loan-insurance assistance in increasing the housing stock in areas of demonstrated need.

(b) The impact of loan-insurance assistance in upgrading substandard residential structures to decent, safe, and sanitary condition.

(c) The impact of loan-insurance assistance in stabilizing urban neighborhoods and preventing or arresting the process of deterioration.

(d) The impact of loan-insurance assistance in effectuating the efficient utilization of commitments of housing subsidies, thereby increasing housing opportunities for very low-income households.

(e) The impact of loan-insurance assistance in effectuating the efficient utilization of community development funds made available pursuant to the Housing and Community Development Act of 1974 (Public Law 93-383).

(f) The availability and feasibility of alternative means to achieve substantially the same results as loan-insurance assistance.

(g) Opportunities for coinsurance or reinsurance of bonds and mortgages.

(h) The needs of other state housing programs.

(i) The availability of sufficient moneys in the insurance fund.

42046. Until the agency is satisfied that the effectiveness of loan-insurance projects conducted in areas designated pursuant to Section 42048 has been demonstrated, and in any case prior to January 1, 1978, the aggregate outstanding principal balance of loans insured in participating community improvement areas shall not exceed 10 percent of the aggregate outstanding principal balance of all loans insured under this part

42047. Upon the application of a local public entity supplying such supporting information and data as the agency may require, the agency shall designate any of the following as participating concentrated rehabilitation areas:

(a) Any area in which there is an availability of funds from any local agency or agency of the state or federal governments for the purpose of making rehabilitation loans, with interest that is less than the market rate, in connection with concentrated enforcement of local rehabilitation standards.

(b) Any area with respect to which the agency makes the following findings:

(1) The area was selected by the legislative body after citizen participation.

(2) There is a significant number of older and deteriorating residential structures in such area requiring rehabilitation.

(3) Loan-insurance assistance is necessary to enable and encourage residents in such area to cooperate in a local program of concentrated enforcement of rehabilitation standards.

(4) Rehabilitation of residential structures will arrest deterioration in the area.

(5) Loan-insurance assistance for financing of rehabilitation in such area is economically feasible.

(6) The local agency has offered to contract with the agency to (a) provide necessary supporting neighborhood public improvements and services, such as street improvements, landscaping and acquisition of open space, undergrounding of utility lines, and construction of drainage facilities in the area for which eligibility has been requested, and (b) provide concentrated and continuing enforcement of state and local housing standards in such area.

(7) The local agency has made every effort to prevent unnecessary displacement in accomplishing rehabilitation and has an adequate program of relocation advisory assistance for persons unavoidably displaced due to rehabilitation.

(8) The supply of housing available to very low-income households at affordable rents and the supply of housing available to other persons and families of moderate income at affordable rents will not be reduced within the area because those displaced will receive relocation payments and be able to obtain standard housing in the area. Alternatively, standard housing will be available at affordable rents in equally desirable neighborhoods, expanding the range of housing opportunities for minority and low-income persons.

(9) The local agency has adopted a housing element in compliance with Section 65302 of the Government Code and with housing-element guidelines which set forth an effective plan for systematic enforcement of state and local building standards throughout its jurisdiction.

(10) The application is consistent with local housing assistance plans adopted pursuant to the Housing and Community Development Act of 1974 (Public Law 93-383).

(11) The local agency has satisfied such other pertinent criteria as the agency may by regulation require after public hearings.

42048. Upon the application of a local public entity supplying such supporting information and data as the agency may require, the agency shall designate all or a portion of the territory subject to the jurisdiction of a local agency as a participating community improvement area if it makes the following findings:

(a) The area was selected by the legislative body after citizen participation.

(b) Deteriorating residential structures within the proposed area are not suitable for concentrated enforcement of rehabilitation standards as provided for in Section 42047 because of their dispersed location

(c) Enforcement of rehabilitation standards in conjunction with a program of loan insurance is necessary to effect preservation of such

residential structures and would have the effect of improving stability and property values in the surrounding community.

(d) The housing element of the general plan adopted by the local agency pursuant to subdivision (c) of Section 65302 of the Government Code sets forth an effective plan for citywide or countywide systematic enforcement of state or local housing standards.

(e) The legislative body has, by ordinance, adopted adequate procedures for identifying residential structures eligible for rehabilitation with an insured loan and, in connection therewith, priorities which will serve the purposes of this part while providing a program which is economically feasible.

(f) The legislative body has given substantial assurances acceptable to the agency that it will provide necessary supporting neighborhood public improvements and services.

(g) The local agency has made every effort to prevent unnecessary displacement in accomplishing rehabilitation and has an adequate program of relocation advisory assistance for persons unavoidably displaced due to rehabilitation.

(h) The local agency has satisfied such other pertinent criteria as the agency may by regulation prescribe after public hearings.

42049. The agency shall designate participating mortgage funds assistance areas throughout the state, after soliciting maximum feasible participation by local agencies and community organizations. Participating mortgage funds assistance areas shall meet the following criteria:

(a) Market-rate mortgage financing is generally unavailable in the area.

(b) Deterioration in the area has not progressed to a stage where there is a substantial number of residential structures which do not conform to rehabilitation standards. Alternatively, the area has previously been subject to a program of concentrated code enforcement.

(c) Unavailability of mortgage funds is likely to be a primary cause of deterioration of residential structures located in such area in the future.

(d) Loan insurance assistance to the area is likely to prevent deterioration and stabilize the area.

(e) Loan insurance assistance to the area is economically feasible.

42050. Insured loans shall not be made available pursuant to this part in areas where there exists widespread damage of a substantial nature to residential structures resulting from any natural or other disaster, including fire, flood, wind, and earthquake.

CHAPTER 4 LOAN INSURANCE

42060. (a) To be qualified for loan insurance a borrower shall be, or by reason of a loan insured pursuant to this part shall become, the owner of the residential structure for which an insured loan is

authorized, and shall be able to bear the usual expenses of maintaining such structure and repay the loan. The agency may by regulation establish such additional requirements as it shall deem necessary to accomplish the purposes of this part.

(b) For the purpose of increasing the efficiency and minimizing the cost of the loan insurance program, the agency may insure or issue commitments to insure loans upon the certification of an officer of an approved lending institution that the borrower is qualified for loan insurance according to eligibility requirements specified by the regulations of the agency. However, the agency shall authorize such certification only for loans with respect to which the approved lending institution retains a substantial portion of the total risk

42061. The agency shall adopt regulations specifying the percentage of the outstanding principal indebtedness which may be insured under this part with respect to each category of loan authorized to be insured under this part. Loans not secured by a mortgage of first priority may be insured for an amount equal to 100 percent of the outstanding principal indebtedness. All other categories of loans may be insured only for such percentage of the amount at risk as the agency determines is necessary to induce approved lending institutions to make such loans for the purposes specified in this part.

42062. Loans for the rehabilitation, refinancing, or acquisition of residential structures located in eligible areas designated pursuant to Chapter 3 (commencing with Section 42068) of this part may be insured by the agency, subject to the following requirements:

(a) Except for loans insured pursuant to subdivision (d), at least 20 percent of the amount of any such loan shall be used for repairs or improvements which are required by rehabilitation standards

(b) The loan may include an additional amount to be used for general property improvements, which shall not exceed 20 percent of the amount used for rehabilitation required by rehabilitation standards; or, in the cases of owner-occupied residential structures of not more than four dwelling units, amounts loaned for general property improvements shall not exceed 40 percent of the amount loaned for required rehabilitation.

(c) Subject to the limitation prescribed by subdivision (a), the proceeds of the loan may be used for refinancing of existing indebtedness secured by property to be rehabilitated. Loans for refinancing may be insured only if refinancing is necessary to permit a borrower to afford the cost of rehabilitation or to minimize rent increases for occupants of the residential structure whose rents would otherwise exceed affordable rents due to the expense of rehabilitation.

(d) The proceeds of the loan may be used for financing acquisition and rehabilitation of a residential structure, or acquisition of a rehabilitated structure, or acquisition of a residential structure which the borrower has agreed to conform to rehabilitation standards within a time and in a manner specified by regulations of the agency.

No borrower shall be eligible for insurance of a loan or loans for the acquisition of more than one residential structure with respect to any such area, unless the borrower is a qualified rehabilitator.

42063. In addition to insurance of loans authorized by Section 42062, the agency may insure the following loans with respect to participating mortgage funds assistance areas:

(a) Loans for acquisition of residential structures, provided such structures are in conformance with state and local housing and building standards; and provided, further, that no borrower shall be eligible for insurance of a loan or loans for more than one residential structure with respect to any such area, unless the borrower is a qualified rehabilitator.

(b) Construction and mortgage loans made or assisted pursuant to this division for financing housing developments Not more than 25 percent of the aggregate outstanding principal balance of loans insured pursuant to this part may consist of loans authorized to be insured by this subdivision.

42064. Loans insured pursuant to this part shall meet the following requirements:

(a) The loans shall be made for a period acceptable to the agency, not to exceed 40 years or four-fifths of the remaining economic life of the structure as determined by the agency in accordance with its regulations, whichever is less

(b) The loans shall be subject to maximum loan amounts for each category of loan authorized to be insured under this part, as established by regulations of the agency.

(c) The loans shall be secured by mortgages.

(d) The agency shall establish loan-to-value limitations for each category of loan and may set forth limitations on the further encumbrance of structures and other real property securing loans, but only to the extent necessary to prevent unreasonable impairment of the agency's security. In no case involving refinancing or purchase shall the loan have a principal obligation in an amount exceeding the sum of the estimated cost of rehabilitation, if any, and either the amount required to refinance existing indebtedness secured by the property or, in the case of a sale, the amount of the purchase price and settlement and closing costs incurred in connection with the purchases.

(e) Loans for the rehabilitation of residential structures shall have a principal obligation not exceeding an amount which, when added to any outstanding indebtedness constituting a lien upon the property securing the loan, creates a total outstanding indebtedness which could be reasonably secured by a first mortgage on the property pursuant to subdivision (d), and as set forth by regulations of the agency.

(f) With respect to any loan for the rehabilitation of a residential structure, the agency shall determine that such repair and improvement is economically feasible. With respect to the rehabilitation of a mixed-use residential and commercial structure or

of a commercial structure, the agency shall determine that there will be a demand for commercial occupancy of the residential structure after rehabilitation. In making such determination, the level of rent necessitated by repayment of the loan shall be considered.

(g) For the purpose of increasing the efficiency and minimizing the cost of the loan insurance program, the agency may insure or issue commitments to insure loans, upon the certification of an officer of an approved lending institution that the proposed rehabilitation conforms to requirements specified by regulations of the agency regarding economic feasibility and commercial demand.

(h) With respect to any loan for rehabilitation or rehabilitation in combination with refinancing or purchase, the loan agreement shall provide that all funds loaned for repairs and improvements shall be paid after completion or according to a progress payment schedule to the owner and contractor or other provider of goods or services jointly at such times as payment becomes due, and provided the work or portion of the work for which payment is tendered is certified, as provided by regulation of the agency, to be in compliance with contract specifications and applicable state or local housing or building standards. The agency shall approve the contractor or contractors, the contract to provide rehabilitation construction, and the contract specifications prior to committing any funds of an insured loan for rehabilitation.

(i) The agency shall require that borrowers contract during the term of the loan not to raise residential rentals over an amount which the agency by regulation establishes will yield a fair rate of return and will allow for increases reasonably necessary to provide and continue proper maintenance of the property; except that residential structures with more than one but less than five dwelling units which are to be occupied by the owner shall be regulated as to rentals in a manner consistent with paragraph (8) of subdivision (b) of Section 42047.

(j) Relocation payments shall be made to persons displaced because of inability to afford costs of compliance, temporary displacement for rehabilitation work assisted under this part or rent increases resulting from rehabilitation, with eligibility and amount of assistance to be determined pursuant to the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (40 U.S.C. Sec. 4601) or Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. Relocation payments may be made from the proceeds of insured loans as authorized by the agency.

(k) The residential structure for which a loan is insured pursuant to this part shall be insured against loss due to fire and other causes, as provided by the regulations of the agency.

(*l*) Such other terms and conditions as the agency, by regulation, determines are necessary to further the purposes of this part.

42065 (a) The agency shall, after public hearings, establish, and may from time to time revise, a schedule of insurance premiums to be added to the interest rates of insured loans. Such premiums may

vary according to the category of the loan and the degree of risk related to the loan. Premiums shall be calculated in an amount which, when added to the other revenues of the insurance program, will be adequate to defray losses occasioned by defaults and the operating expenses of the program, to repay amounts advanced to the agency for purposes of this part from the General Fund, to make payments to the General Obligation Bond Account to the extent required by Section 41806.5, and gradually to expand the insurance capability of the program. remit premiums to the agency at intervals specified by the agency.

(b) The agency may by regulation prescribe such other charges as it finds necessary, including service charges and appraisal, inspection, and other fees.

42066. The agency shall establish procedures to be followed by approved lending institutions in the event of default on a loan insured under this part. The agency shall require that, prior to submitting a claim, an approved lending institution shall foreclose or exercise a power of sale and take possession of the property or otherwise acquire title and possession of such property within the time specified by the agency. The agency may, upon submission of such a claim, pursue either of the following alternatives:

(a) Pay the approved lending institution the benefit of the insurance, or

(b) Upon conveyance to the agency of all the right, title, and interest of the approved lending institution in the foreclosed property and the assignment of all claims of the approved lending institution against the defaulting borrower to the agency, pay to the qualified mortgage lender the sum of the unpaid principal balance of the loan, foreclosure costs, accrued interest, and such other costs as the agency shall find are fair and reasonable and by regulation authorize.

In any case in which the agency has insured only a portion of the outstanding principal indebtedness of a loan, it may further provide that not more than an equivalent percentage of the total accrued interest and costs shall be payable by the agency pursuant to this section in the event of a default.

42067. In the event of a default on an insured loan not secured by a first mortgage, the agency may, in lieu of proceeding under Section 42066, acquire the insured loan and any security therefor upon payment to the approved lending institution of an amount equal to the unpaid principal balance of the loan, accrued interest, and such other costs as the agency shall find are fair and reasonable and by regulation authorize.

42068. The agency may initiate programs of coinsurance or reinsurance with, and may procure reinsurance from, any local agency or agency of the United States or private mortgage insurer in order to accomplish more effectively the purposes of this part

42069. The agency may provide for, and require attendance at, homeownership counseling and training courses as a condition to the

insurance of loans for the purchase or refinancing of residential structures under this part.

42070. Notwithstanding any other provision of this part, on or after the date on which the agency commences to sell general obligation bonds pursuant to Part 4 (commencing with Section 41800) of this division, the agency shall not insure any loan that is made or assisted pursuant to this division, except that the agency may insure any such loan for which a valid commitment to insure was made prior to such date.

CHAPTER 5. BOND INSURANCE

42080. The agency may insure bonds issued by local agencies, redevelopment agencies, or housing authorities pursuant to Part 13 (commencing with Section 37910) of Division 24. The agency may charge and collect insurance premiums for such insurance and make other reasonable charges for services performed in connection with approval and processing of such insurance. The agency shall take all reasonable steps to assure the following:

(a) The bonds contain, or are subject to, terms respecting repayment, dates of maturity, and other provisions satisfactory to the agency

(b) The bonds contain, or are subject to, provisions which the agency deems necessary with respect to security interests of the agency, including provisions relating to subrogation, liens and releases of liens, payment of taxes, escrow or trusteeship requirements, or other matters.

SEC. 2. The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund for transfer to the Housing Rehabilitation Insurance Fund created by Section 42030 of the Health and Safety Code.

Such moneys shall constitute, and be accounted for, as advances to the California Housing Finance Agency, and a like amount shall be repaid to the General Fund in the State Treasury, without interest, not later than January 1, 1986, from all revenues of the agency available for the purposes of this part in excess of amounts required for payment of the agency's current operating expenses and amounts necessary to maintain the loan and bond reserve accounts at not less than the loan and bond insurance reserve requirements.

SEC. 3. This act shall not become operative unless Senate Bill No. 2 or Assembly Bill No. 1 of the 1975-76 First Extraordinary Session of the Legislature, or both, are enacted and create a California Housing Finance Agency, and in such case this act shall become operative on the effective date of Senate Bill No. 2 or Assembly Bill No. 1.

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to the Joint Rules of the Senate and Assembly.

[Filed with Secretary of State February 19, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Temporary Joint Rules of the Senate and Assembly for the 1973–74 Regular Session, except for Joint Rule 55, be, and the same are hereby, adopted as the Joint Rules of the Senate and Assembly for the 1975–76 First Extraordinary Session.

RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 1—Relative to adjournment of the 1975–76 First Extraordinary Session.

[Filed with Secretary of State June 30, 1975]

Resolved by the Assembly of the State of California, the Senate thereof concurring, That the 1975–76 First Extraordinary Session of the Legislature of the State of California shall adjourn sine die upon adjournment on Friday, June 27, 1975.

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1975–76

SECOND EXTRAORDINARY SESSION

PROCLAMATION BY THE GOVERNOR

Convening the Legislature in Second Extraordinary Session

EXECUTIVE DEPARTMENT, STATE OF CALIFORNIA

PROCLAMATION

The cost of medical malpractice insurance has risen to levels which many physicians and surgeons find intolerable. The inability of doctors to obtain such insurance at reasonable rates is endangering the health of the people of this State, and threatens the closing of many hospitals. The longer term consequences of such closings could seriously limit the health care provided to hundreds of thousands of our citizens.

In my judgment, no lasting solution is possible without sacrifice and fundamental reform. It is critical that the Legislature enact laws which will change the relationship between the people and the medical profession, the legal profession and the insurance industry, and thereby reduce the costs which underlie these high insurance premiums.

Therefore, in convening this extraordinary session, I ask the Legislature to consider:

1. Reconstituting the Board of Medical Examiners to include a majority of public members.
2. Giving the Board full authority to discipline and decertify practitioners for lack of competency.
3. Providing the Board with authority to set recertification standards, including updated training and public service, in order to minimize malpractice and increase the quality of medical care.
4. Providing the Board with authority to develop a system to minimize the present maldistribution of medical care in certain areas of the State.
5 Establishing a Medical Peace Corps to serve Californians who lack adequate medical care.
6. Regulation of hospital rates, including authority over excessive hospital bed capacity and unnecessary duplication of expensive and under-utilized equipment.
7. Voluntary binding arbitration in order to quickly and fairly resolve malpractice claims while maintaining fair access to the courts.
8. Establishment of reasonable limits on the amount of contingency fees charged by attorneys.
9. Elimination of double payments ("collateral sources"); institution of periodic payments and reversionary trusts; limitation of compensation for pain and suffering while insuring fully adequate compensation for all medical costs and loss of earnings; and setting a reasonable statute of limitations for the filing of malpractice claims.

In addition, I intend to·

a) convene a Special Panel to immediately conduct a complete investigation into all insurance company rates and reserve practices and;
b) support legislation in the regular session to insure adequate public representation on all professional boards, including the Board of Governors of the California State Bar

Therefore, by virtue of Article IV, Section 3 of the Constitution, I hereby assemble the Legislature of the State of California in extraordinary session at Sacramento at 1:00 p.m. Monday, May 19, 1975, to consider and act on this legislation.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 16th day of May, 1975.

[SEAL]

EDMUND G. BROWN JR.
Governor of California

Attest: MARCH FONG EU
Secretary of State
BY MICHAEL S. GAGAN
Deputy Secretary of State

CHAPTER 1

An act to amend Sections 125.5, 2100, 2101, 2116, 2119, 2361, 2361.5, 2362, 2364, 2372.5, 2436, 2454, 2456, and 2458 of, to add Sections 2100.2, 2100.5, 2100.6, 2100.7, 2100.8, 2101.5, 2101.6, 2122, 2372, and 2372.1 to, to add Article 11 (commencing with Section 800) to Chapter 1 of Division 2 of, to add Article 2.3 (commencing with Section 2123) and Article 2.4 (commencing with Section 2124.5) to Chapter 5 of Division 2 of, to add Article 8.5 (commencing with Section 6146) to Chapter 4 of Division 3 of, to repeal Section 2372 of, to repeal Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of, and to repeal Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of, the Business and Professions Code; to amend Section 43.8 of, and to add Sections 3333.1, and 3333.2 to the Civil Code; to amend Sections 340.5 and 1094.5 of, to add Sections 667.7 and 674.7 to, and to add Chapter 5 (commencing with Section 364) to Title 2 of Part 2 of, and to add Title 9.1 (commencing with Section 1295) to Part 3 of, the Code of Civil Procedure; and to add Sections 11587 and 11588 to, the Insurance Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 23, 1975 Filed with Secretary of State September 23, 1975]

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

SECTION 1. This act shall be known and may be cited as the Medical Injury Compensation Reform Act.

SEC. 2. Section 125.5 of the Business and Professions Code is amended to read:

125.5. (a) The superior court for the county in which any person has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required. As used in this section, "board" includes commission, bureau, division, agency and a medical quality review committee.

(b) The superior court for the county in which any person has engaged in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, order such person to make restitution to persons injured as a result of such violation.

(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a) of this section, or

subject to an order requiring restitution pursuant to subdivision (b), to reimburse the petitioning board for expenses incurred by the board in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other section of this code.

SEC. 2.2. Article 11 (commencing with Section 800) of Chapter 1 of Division 2 of the Business and Professions Code is repealed.

SEC. 2.3. Article 11 (commencing with Section 800) is added to Chapter 1 of Division 2 of the Business and Professions Code, to read:

Article 11. Professional Reporting

800. (a) The Board of Medical Quality Assurance, the Board of Dental Examiners, the Board of Osteopathic Examiners, the California Board of Registered Nursing, the Board of Vocational Nurse and Psychiatric Technician Examiners, the State Board of Optometry, the Board of Examiners in Veterinary Medicine, and the State Board of Pharmacy shall each separately create and maintain a central file of the names of all persons who hold a license, certificate or similar authority from such board. Each such central file shall be so created and maintained as to provide an individual historical record for each such person with respect to (1) any conviction of a crime in this or any other state which constitutes unprofessional conduct under Section 2383, pursuant to the reporting requirements of Section 803; (2) any judgment or settlement requiring him or his insurer to pay any amount of damages in excess of three thousand dollars ($3,000) with respect to any claim that injury or death was proximately caused by such person's negligence, error or omission in practice or rendering of unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802; (3) any public complaints for which provision is hereinafter made by regulation, pursuant to subdivision (b) of this section; (4) disciplinary information reported pursuant to Section 805.

(b) Each such board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in or connected with the performance of professional services by such person.

Each such complaint shall be immediately forwarded to the appropriate medical quality review committee for action, pursuant to Article 2.3 (commencing with Section 2123) of Chapter 5.

Upon a determination by the committee that the complaint is without merit, the central file shall be purged of information relating to the complaint.

(c) The contents of any central file shall be confidential except that it may be reviewed (1) by the person involved or his counsel or representative who may, but is not required to submit any additional exculpatory or explanatory statements or other information, which

statements or other information must be included in the file, (2) by any district attorney or representative or investigator therefor who has been assigned to review the activities of a healing arts licentiate, (3) by any representative of the Attorney General's office or investigator thereof who has been assigned to review the activities of a healing arts licentiate, or (4) by any investigator of the Department of Consumer Affairs who has been assigned to review the activities of a healing arts licentiate. Such person may, but is not required to submit any additional exculpatory or explanatory statements or other information which statements or other information must be included in the file.

801. (a) Every insurer providing professional liability insurance to a person who holds a license, certificate or similar authority from or under any agency mentioned in Section 800(a) (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2) shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by such person's negligence, error or omission in practice or his rendering of unauthorized professional services. Such report shall be sent within 30 days after such written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of such arbitration award on the parties.

(b) Notwithstanding any other provision of law, no insurer shall enter into such a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without such written consent. The requirement of written consent can only be waived by both the insured and the insurer. The provisions of this section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.

802. Every settlement or arbitration award over three thousand dollars ($3,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of professional services, by a person who holds a license, certificate or other similar authority from an agency mentioned in Section 800(a) (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2) who does not possess professional liability insurance as to such claim shall, within 30 days after any such written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of such arbitration award on the parties, be reported to the agency which issued the license, certificate or similar authority. A complete report shall be made by appropriate means by such person or his counsel, with a copy of such communication to be sent to the claimant through his counsel if he is so represented, or directly if he is not. If, within 45 days of the conclusion of such written settlement agreement or service of such arbitration award on the parties, counsel for the claimant (or if he is not represented by

counsel, the claimant himself) has not received a copy of the report, he shall himself make such a complete report. Failure of the physician or claimant (or, if represented by counsel, their counsel) to comply with the provisions of this section is a public offense punishable by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in such compliance is a public offense punishable by a fine of not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

803. Within 10 days after a judgment by a court of this state that a person who holds a license, certificate or other similar authority from an agency mentioned in Section 800(a) (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) of Division 2) has committed a crime or is liable for any death or personal injury caused by his negligence, error or omission in practice, or his rendering unauthorized professional services, the clerk of the court which rendered such judgment shall report the same to that agency which issued the license, certificate or other similar authority; provided that, where the judge who tried the matter finds that it does not relate to the defendant's professional competence or integrity, he may, by order, dispense with the requirement that the report be sent.

804. (a) Any agency to whom reports are to be sent under Section 801 or Section 803 may develop a prescribed form for the making of such reports, usage of which it may, but need not, by regulation require in all cases.

(b) A report required to be made by any of the foregoing sections shall be deemed complete only if it includes the following information: (1) the name and last known business and residential addresses of every plaintiff or claimant involved in the matter, whether or not each such person recovered anything; (2) the name and last known business and residential addresses of every physician or provider of health care services who was claimed or alleged to have acted improperly, whether or not such person was a named defendant and whether or not any recovery or judgment was had against such person; (3) the name, address and principal place of business of every insurer providing professional liability insurance as to any person named in (2) and the insured's policy number; (4) the name of the court in which the action or any part of the action was filed along with the date of filing and docket number of each such action; (5) a brief description or summary of the facts upon which each claim, charge or judgment rested including the date of occurrence; (6) the names and last known business and residential addresses of every person who acted as counsel for any party in the litigation or negotiations, along with an identification of the party whom said person represented; (7) the date and amount of final judgment or settlement; and (8) such other information as the

agency to whom the reports are to be sent may, by regulation, require.

(c) Every person named in such report, who is notified by the board within 60 days of the filing of the report, shall maintain for the period of three years from the filing of such report any records he has as to the matter in question and shall make those available upon request to the agency with which the report was filed.

805. The chief administrator or executive officer of any county hospital or county medical facility or any clinic, health facility, general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, or special hospital licensed pursuant to Division 2 of the Health and Safety Code (commencing with Section 1200), or any health care service plan or medical care foundation shall report to the agency which issued the license, certificate, or similar authority when any person who holds a license, certificate or similar authority under any agency mentioned in Section 800 is denied staff privileges, removed from the medical staff of such institution, or if his staff privileges are restricted for a cumulative total of 45 days in any calendar year, for any medical disciplinary cause or reason. Such report shall be made within 20 working days following such removal or restriction, shall be certified as true and correct by the chief administrator or other executive officer, and shall contain a statement detailing the nature of the action, its date and all of the reasons for, and circumstances surrounding, such action. If the removal or restriction is by resignation or by voluntary action, the report shall state whether the resignation was requested or bargained for.

The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800.

806. Each agency in the department receiving reports pursuant to the preceding sections shall prepare a statistical report based upon such records for presentation to the Legislature not later than 30 days after the commencement of each regular session of the Legislature, including a summary of administrative and disciplinary action taken with respect to such reports and any recommendations for corrective legislation if the agency considers such legislation to be necessary.

807. Each agency in the department shall notify every person licensed, certified or holding similar authority issued by it, and the department shall notify every insurance company doing business in this state and every institution mentioned in Section 805 of the provisions of this article.

SEC. 3. Section 2100 of the Business and Professions Code, as amended by Chapter 716 of the Statutes of 1971, is amended to read:

2100. There is in the Department of Consumer Affairs a Board of Medical Quality Assurance of the State of California which consists of 19 members who shall be appointed by the Governor, subject to confirmation by the Senate, seven of whom shall be public members.

SEC. 4. Section 2100 of the Business and Professions Code, as amended by Chapter 1593 of the Statutes of 1971, is amended to read:

2100. There is in the State Department of Health a Board of Medical Quality Assurance of the State of California which consists of 19 members who shall be appointed by the Governor, subject to confirmation by the Senate, seven of whom shall be public members.

SEC. 4.5. Section 2100.2 is added to the Business and Professions Code, to read:

2100.2. Notwithstanding any other provision of law, the terms "board" or "Board of Medical Examiners" as used in this chapter shall mean the Board of Medical Quality Assurance.

SEC. 5. Section 2100.5 is added to the Business and Professions Code, to read:

2100.5. The board shall consist of the following three divisions: a Division of Medical Quality, a Division of Licensing, and a Division of Allied Health Professions.

SEC. 6. Section 2100.6 is added to the Business and Professions Code, to read:

2100.6. The Division of Medical Quality shall have responsibility for (a) reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board; (b) deciding cases referred to it by the medical quality review committees; (c) carrying out disciplinary action appropriate to findings made by a medical quality review committee or the division.

SEC. 7. Section 2100.7 is added to the Business and Professions Code, to read:

2100.7. The Division of Licensing shall have the responsibility for: (a) developing and administering the physicians and surgeons examination; (b) issuing licenses and certificates; (c) suspending, revoking or limiting licenses and certificates upon order of the Division of Medical Quality; (d) administering programs of continuing competence for certificate holders pursuant to Section 2101.6; (e) approving undergraduate and graduate medical education programs; (f) approving clinical clerkship and special programs; (g) administering student loan programs, grants and reciprocity certificates.

SEC. 8. Section 2100.8 is added to the Business and Professions Code, to read:

2100.8. The Division of Allied Health Professions shall have responsibility for:

(a) The activities of examining committees and nonphysician certificate holders under the jurisdiction of the board.

(b) Discipline of nonphysician certificate holders to the extent such discipline is currently within the jurisdiction of the board.

(c) Acting as liaison with other healing arts boards concerning the activities of the licentiates of other boards.

(d) Reporting to the Legislature and the Governor by July 1, 1976, concerning the desirability of certifying currently noncertified

categories providing health services of a technical nature.

SEC. 9. Section 2101 of the Business and Professions Code is amended to read:

2101. Members of the board shall only be appointed from persons who have been citizens of this state for at least five years next preceding their appointment. Members of the board, except the public members, shall only be appointed from persons who hold licenses under this chapter or any preceding medical practice act of this state. Physician members of the board shall be appointed from physicians who have served at least one term on a district review committee or a medical quality review committee. Five of such licensee members shall be members of the faculty of a clinical department of an approved medical school in the state. The public members shall not be licentiates of the board. No person who in any manner owns any interest in any college, school, or institution engaged in medical instruction shall be appointed to the board. Not more than four members of the board may be full-time members of the faculties of medical schools.

SEC. 10. Section 2101.5 is added to the Business and Professions Code, to read:

2101.5. The Division of Medical Quality shall consist of seven members of the board, three of whom shall be public members. The Division of Licensing shall consist of seven members, two of whom shall be public members. The Division of Allied Health Professions shall consist of five members, two of whom shall be public members.

Each member presently serving on the board shall be assigned by the Governor to sit in a specific division. Appointments made by the Governor subsequent to the effective date of this section shall be made to a specific division.

SEC. 11. Section 2101.6 is added to the Business and Professions Code, to read:

2101.6. In order to insure the continuing competence of physicians and surgeons certificate holders under this chapter, the Division of Licensing shall by January 1, 1977, adopt and administer standards for continuing education of such certificate holders. The division shall require certificate holders to demonstrate satisfaction of the continuing education requirements at intervals of not less than four nor more than six years.

SEC. 11.3. Section 2116 of the Business and Professions Code is amended to read:

2116. The board may prosecute all persons guilty of violating the provisions of this chapter.

It may employ investigators, legal counsel, medical consultants, and any such clerical assistance as it may deem necessary to carry into effect the provisions of this chapter. The board may fix the compensation to be paid for such service and may incur such other expenses as it may deem necessary.

The Attorney General shall act as the prosecuting legal counsel for the board and his services shall be a charge against it.

SEC. 11.5. Section 2119 of the Business and Professions Code is amended to read:

2119. A division of the board may, within its jurisdiction, adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, such rules as may be reasonably necessary to enable it to carry into effect the provisions of this chapter.

Five members of the Division of Medical Quality, three members of the Division of Licensing, and three members of the Division of Allied Health Professions shall constitute a quorum for the transaction of business at any meeting.

It shall require the affirmative vote of a majority of the membership of a division to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize the issuance of any certificate under this chapter, except that a decision by the Division of Medical Quality to revoke the certificate of a physician and surgeon shall require an affirmative vote of five members of the division.

SEC. 12. Section 2122 is added to the Business and Professions Code, to read:

2122. The Division of Medical Quality of the board shall report to the Legislature and the Governor by July 1, 1977, with a recommended program by which to insure the continuing competence of certificate holders under this chapter on the basis of individual performance evaluation.

The division shall seek advice and consultation in making its recommendation from medical quality review committees, professional medical societies, professional standards review organizations, and other appropriate persons.

The Division of Medical Quality shall report to the Legislature and the Governor by January 1, 1977, with a recommended program whereby the activities of medical quality review committees and professional standard review organizations can be integrated to assure the maintenance of high-quality medical practice, and the establishment of individual performance evaluation standards for certificate holders.

SEC. 13. Article 2.3 (commencing with Section 2123) of Chapter 5 of Division 2 of the Business and Professions Code is repealed.

SEC. 14. Article 2.3 (commencing with Section 2123) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 2.3. Medical Quality Review Committees

2123. The Legislature finds and declares that the public health requires the establishment of procedures to assure the maintenance of high-quality medical practice by holders of certificates under this chapter.

The Legislature intends by this article to establish a system of medical quality review committees under the jurisdiction of the

Division of Medical Quality of the Board of Medical Quality Assurance to initiate a continuing review of the quality of medical practice by certificate holders and to undertake such remedial or disciplinary functions as are specified herein and appropriate for the protection of the public and the certificate holder.

2123.1. As used in this article:

(a) "Board" means the Board of Medical Quality Assurance of the State of California.

(b) "Committee" means a medical quality review committee created by this article.

(c) "District" means a district established by Section 2123.2.

2123.2. The state is divided, for the purposes of this article, into the following 14 districts:

(a) The first district consists of the Counties of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Lake, and Colusa.

(b) The second district consists of the Counties of Sierra, Yuba, Sutter, Yolo, Placer, El Dorado, and Sacramento.

(c) The third district consists of the Counties of Sonoma, Napa, and Solano.

(d) The fourth district consists of the Counties of Marin, San Francisco, and San Mateo.

(e) The fifth district consists of the Counties of Contra Costa and Alameda.

(f) The sixth district consists of the Counties of Alpine, Amador, Calaveras, Tuolumne, San Joaquin, Stanislaus, and Merced.

(g) The seventh district consists of the County of Santa Clara.

(h) The eighth district consists of the Counties of San Benito, Monterey, and San Luis Obispo.

(i) The ninth district consists of the Counties of Mariposa, Madera, Fresno, Kings, Tulare, and Kern.

(j) The 10th district consists of the Counties of Santa Barbara and Ventura.

(k) The 11th district consists of the County of Los Angeles.

(*l*) The 12th district consists of the Counties of Mono, Inyo, San Bernardino, and Riverside.

(m) The 13th district consists of the County of Orange.

(n) The 14th district consists of the Counties of San Diego and Imperial.

2123.3. A medical quality review committee is hereby created for each of the districts established by Section 2123.2. Each committee shall be composed of persons appointed by the Governor from among residents of the district.

The medical quality review committees shall have the following composition:

(a) The first district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(b) The second district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysicians licentiates of a healing arts board.

(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(f) The sixth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(k) The 11th district shall be composed of 20 members, 12 of whom shall hold valid physician's and surgeon's certificates, four of whom shall be public members, and four of whom shall be nonphysician licentiates of a healing arts board.

(*l*) The 12th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(n) The 14th district shall be composed of 15 members, nine of

whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

A medical quality review committee may, pursuant to regulations adopted by the Division of Medical Quality, establish panels of five committee members consisting of three physician members, one public member, and one member who is a licentiate of a healing arts board other than the Board of Medical Quality Assurance for the purposes of hearing and deciding cases before a committee. Five members shall constitute a quorum in order for a panel of a committee to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a panel, such majority constituting at least a majority of a minimum quorum for a panel to decide any case, adopt any rule, pass any measure, or make any recommendation. Where a medical quality review committee meets as a whole, a majority of the membership of the committee shall constitute a quorum to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a committee, such majority constituting at least a majority of a minimum quorum for a committee, to decide any case, adopt any rule, pass any measure, or make any recommendation.

A finding or decision by a panel established under this section shall constitute a finding or decision by a committee.

2123.4. Each member of each committee, except the initial members, shall be appointed by the Governor for a term of four years.

Of those appointments of physicians and surgeons to be made by the Governor to medical quality review committees, for every three physicians to be so appointed, one shall be appointed from among not less than three persons to be nominated by professional medical societies, within the district, which represents the profession at large, one shall be appointed from the faculty of a clinical department of an approved medical school in the state. The faculty member need not reside in the district and shall be appointed from among not less than three nominations submitted to the Governor by the deans of the approved medical schools of the state. One member shall be appointed by the Governor from among not less than three nominations which are submitted to him by the Division of Medical Quality.

Each physician and surgeon appointee shall be licensed to practice in California.

Each member shall hold office until the appointment and qualification of his successor, or until six months have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

Of those initial appointments of physicians and surgeons to medical quality review committees, for every three physicians so appointed, one shall serve a term which expires on September 1, 1978, one shall serve a term which expires on September 1, 1979, and

one shall serve a term which expires on September 1, 1980.

Of those initial appointments of persons other than physicians and surgeons to medical quality review committees, for every two persons so appointed, one shall serve a term which expires on September 1, 1979, and one shall serve a term which expires on September 1, 1980.

2123.5. The Governor may remove any member of a committee for neglect of any duty required by this chapter, incompetency, or unprofessional conduct.

Vacancies in the membership of any committee shall be filled by the Governor by appointment from nominees submitted as provided in Section 2123.4 and with due regard for the proportional makeup of the committee as provided therein.

2123.6. Each member of a committee shall receive a per diem and expenses, as provided in Section 103.

2123.7. Each member of a committee is subject to the same rules and regulations as if he were a member of the board.

2123.9. Except as otherwise provided in this article, all hearings shall be conducted by a committee or panel of a committee in accordance with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

If a contested case is heard by a committee or panel of a committee, the hearing officer who presided at the hearing shall be present during the committee's consideration of the case and, if requested, shall assist and advise the committee.

2123.10. Within 30 days of the conclusion of any hearing which is conducted by a committee or panel, the committee or panel shall render its decision. A decision by a committee or panel calling for the discipline of a licensee, or restricting or limiting the extent, scope, or type of practice of the certificate holder for a period of one year or less, or the suspension from practice of a licensee for 30 days or less, shall be final, except where the committee or panel orders reconsideration pursuant to Section 2124.1. Where a committee or panel renders a decision calling for suspension of a license for a period exceeding 30 days, or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year, or revocation of a license, the decision shall constitute a proposed decision to the Division of Medical Quality of the board. No suspension for a period exceeding 30 days, or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year, or revocation of a license shall be carried out except upon order of the Division of Medical Quality.

The Division of Medical Quality shall act upon a proposed decision within 90 days of receiving such decision from a committee.

2123.11. Each medical quality review committee shall be staffed by at least one medical consultant and sufficient competent investigators from the board as are necessary to carry out the purposes of this article. The investigators so utilized shall be specially

trained to investigate medical practice activities.

2124. A medical quality review committee shall have the following authority and duties:

(a) To initiate reviews of the quality of medical care practices and certificate holders.

(b) To investigate all matters assigned to it by the Division of Medical Quality, and such other matters within the jurisdiction of a committee which it finds warrant action.

(c) To initiate investigations of complaints made by members of the public, and other certificate holders, a health care facility or a division of the board that a certificate holder has been guilty of unprofessional conduct and to report to the complainant within 90 days of the receipt of the complaint by the committee as to the committee's findings and decision All investigations made pursuant to this section shall be commenced immediately and completed within 90 days, with 30-day progress reports submitted to the Division of Medical Quality.

(d) To investigate the standards of practice of any physician and surgeon certificate holder which have resulted in any judgments or settlements requiring the certificate holder or insurer of the certificate holder to pay any amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the certificate holder's error, negligence, or omission.

(e) Investigations conducted pursuant to this section shall be commenced within 15 days and completed within three months. Where applicable, a progress report shall be issued to the complainants within 30 days of the initiation of the investigation. Once an investigation has been completed and grounds for disciplinary action are found by the Attorney General to exist, the Attorney General shall file an accusation with a committee within 30 days. A hearing shall be held by a committee or a panel of a committee within 30 days of the filing of an accusation. A decision shall be rendered by a committee or panel of a committee within 30 days after commencement of hearing.

(f) Where a review or investigation carried out pursuant to subdivision (a), (b), (c), or (d) of this section results in a likelihood or a finding of unprofessional conduct, to hold a hearing pursuant to Section 2123.8 to determine whether unprofessional conduct has occurred.

(f) Upon a finding of unprofessional conduct to take appropriate remedial or disciplinary action in relation to the certificate holder pursuant to Sections 2372, 2372.1, and 2372.5.

(g) Seek injunctions or restraining orders pursuant to Section 2436.

2124.1. Any decision of the Division of Medical Quality or of a committee or panel within the authority granted it by this article is final, except that the Division of Medical Quality or a committee may, on its own motion or on petition of any party, within the time

and in the manner prescribed in Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code, order a reconsideration of all or any part of a decision.

2124.2. The Division of Medical Quality shall adopt, amend, or repeal, in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, such regulations as may reasonably be necessary to enable medical quality review committees and panels to carry into effect the provisions of this article.

2124.3. The Division of Licensing, subject to the State Civil Service Act, may employ investigators to evaluate the curricula of medical schools. Such persons shall meet such reasonable standards of experience and education, to be determined by the board, as will enable them to competently perform such duties.

2124.4. Upon receiving a report from any court of an unusually high number of claims for compensation filed against a certificate holder under this chapter, the Division of Medical Quality shall inform the appropriate medical quality review committee. The committee shall investigate the nature and cause of the injuries involved and shall, if appropriate, initiate disciplinary action.

2124.45. Any physician and surgeon may communicate to the committee or panel regarding any other physician and surgeon. Such communications shall remain confidential and shall not be admissible before any hearing or before any court except that the committee or panel may begin investigation on the basis of such communication and may use such communication to develop further information. Such communication, except as provided in subdivision (c) of Section 800, shall be admissible in a defamation action where it is alleged that communication is false and made with malice.

Upon a determination by the committee or panel that the communication is without merit, the central file shall be purged of information relating to the communication.

SEC. 15. Article 2.4 (commencing with Section 2124.5) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 2.4. Medical Statistics

2124.5. There is hereby created under the Board of Medical Quality Assurance the Bureau of Medical Statistics. The purpose of the bureau shall be to provide the board and its divisions with statistical information necessary to carry out their functions of licensing, medical education, medical quality and discipline.

2124.6. The bureau shall conduct such research including the gathering of appropriate statistics as deemed desirable by the board and its divisions and related to their functions. The bureau shall have access to all medical or other information pertaining to the provision of health care services not privileged under law. In the gathering of such information, the bureau shall initially draw upon existing

sources of pooled health data and may purchase such information or contract for the development of such data. In the event that such sources are deemed inadequate by the board or a division the bureau may require any state agency or health care provider to transmit to the bureau statistical information not privileged under law, provided that no provider shall be required to incur unreasonable expenses in the provision of such information. The bureau shall not gather or maintain statistical or other information that identifies individual patients, physicians or other health care providers, except for reports required by Article 11 (commencing with Section 800) of Chapter 1 of Division 2.

2124.7. Each insurer shall, within 30 days of such termination, furnish the bureau with the names of all health care providers in this state whose malpractice liability insurance has been terminated. Any health facility that denies a health care provider privileges shall report such information to the bureau pursuant to Section 805. The bureau, upon the receipt of information submitted pursuant to this section, shall immediately transmit a copy of such information to the named health care provider and the appropriate committee.

2124.8. The bureau shall be the repository for all reports filed with the board pursuant to Article 11 (commencing with Section 800) of Chapter 1 of Division 2.

2124.85. The bureau shall report at least annually to the Legislature on the data it has collected pursuant to this article. Such reports and any data not privileged under the law shall also concurrently be made available to the public.

2124.9. It is the intent of this article that the bureau shall serve to provide the divisions of the board with statistical information necessary to carry out their functions.

SEC. 16. Section 2361 of the Business and Professions Code is amended to read:

2361. The Division of Medical Quality shall take action against any holder of a certificate, who is guilty of unprofessional conduct which has been brought to its attention, or whose certificate has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter.

(b) Gross negligence.

(c) Incompetence.

(d) Gross immorality.

(e) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of the individual's activities as a certificate holder, or otherwise, or whether the act is a felony or a misdemeanor.

(f) Any action or conduct which would have warranted the denial of the certificate.

SEC. 16.5. Section 2361.5 of the Business and Professions Code is amended to read:

2361.5. Clearly excessive prescribing or administering of drugs or treatment, use of diagnostic procedures, or use of diagnostic or treatment facilities which are detrimental to the patient, as determined by the customary practice and standards of the local community of licensees, is unprofessional conduct within the meaning of this chapter in addition to other matters defined as unprofessional conduct in this chapter.

SEC. 17. Section 2362 of the Business and Professions Code is amended to read:

2362. The Division of Licensing shall take action against any holder of any reciprocity certificate, whose certificate, upon which his reciprocity certificate was issued, was procured by fraud or misrepresentation or issued by mistake, or who is found to be practicing contrary to the provisions of this chapter.

SEC. 18. Section 2364 of the Business and Professions Code is amended to read:

2364. No action shall be taken against the holder of any certificate except in compliance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 19. Section 2372 of the Business and Professions Code is repealed.

SEC. 20. Section 2372 is added to the Business and Professions Code, to read:

2372. The holder of a certificate whose default has been entered or who has been heard by a committee or panel and found guilty may:

(a) Have his certificate revoked upon order of the Division of Medical Quality upon recommendation of the committee or panel;

(b) Have his right to practice suspended for a period not to exceed one year upon order of the Division of Medical Quality upon recommendation of the committee or panel;

(c) Be placed on probation by the committee;

(d) Have such other action taken in relation to discipline as the committee or panel may deem proper.

SEC. 21. Section 2372.1 is added to the Business and Professions Code, to read:

2372.1. In exercising its disciplinary authority a committee shall wherever possible take such action as is calculated to aid in the rehabilitation of a certificate holder or where due to lack of continuing education or other reasons restriction on scope of practice is indicated to order such restrictions as are indicated by the evidence. It is the intent of the Legislature that committees shall seek out those certificate holders who have demonstrated deficiencies in competency and then take such actions as are indicated, with priority given to those measures, including further education, restrictions on practice, or other means that will remove such deficiencies as are found from the evidence.

SEC. 22. Section 2372.5 of the Business and Professions Code is amended to read:

2372.5. The authority of a committee to discipline the holder of a certificate by placing him on probation includes, but is not limited to, the following:

(a) Requiring the certificate holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the committee.

(b) Requiring the certificate holder to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the committee. If the committee requires the certificate holders to submit to such an examination, the committee shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the certificate holder's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the certificate holder.

SEC. 23. Section 2436 of the Business and Professions Code is amended to read:

2436. Whenever any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the superior court of any county, on application of the board or of 10 or more persons holding physician's and surgeon's or podiatrist's certificates issued under this chapter, or on application of any division of the Board of Medical Quality Assurance may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 of Title 7, Part 2, of the Code of Civil Procedure, except that no undertaking shall be required in any action commenced by the board.

SEC. 24. Section 2454 of the Business and Professions Code is amended to read:

2454. The receipts of the initial license fees and renewal fees collected by the Board of Medical Quality Assurance from persons licensed under this chapter shall be paid into the contingent fund of the Board of Medical Examiners of California, and shall be used to carry out the provisions of this chapter relating to the compilation, publication, and sale of a directory.

If there is any surplus in these receipts after the expenses of issuing the directories have been paid, such surplus shall be applied solely to expenses incurred under the provisions of this chapter. No surplus in these receipts shall be deposited in or transferred to the General Fund.

SEC 24.05. Section 2456 of the Business and Professions Code is amended to read:

2456. All fees earned by the board and all fines and forfeitures of bail to which the board is entitled shall be reported at the beginning

of each month, for the month preceding, to the State Controller. At the same time the entire amount of these collections shall be paid into the State Treasury and shall be credited to the contingent fund of the Board of Medical Examiners.

This contingent fund shall be for the uses of the board and out of it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter. Any surplus accumulating in such contingent fund shall remain in such fund and shall not be transferred to the General Fund.

SEC. 24.1. Section 2458 of the Business and Professions Code is amended to read:

2458. The amount of fees and refunds prescribed by this chapter in connection with physicians and surgeons certificates, certificates to practice podiatry, certificates to practice midwifery, and certificates of drugless practitioners is that fixed by the following schedule:

(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, shall be fixed annually by the board at an amount not to exceed one hundred dollars ($100) nor less than fifteen dollars ($15). If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars ($10) shall be retained and the remainder of the fee is returnable on application.

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee in the sum of ten dollars ($10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(c) Each applicant for a certificate under Article 6 shall pay an application fee in the sum of ten dollars ($10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of forty dollars ($40) nor less than five dollars ($5) for the issuance of the certificate.

(d) The renewal fee shall be fixed by the board at a sum not in excess of one hundred dollars ($100).

(e) The delinquency fee is ten dollars ($10).

(f) The duplicate certificate fee is two dollars ($2).

(g) The endorsement fee is five dollars ($5).

(h) The fee for issuance of a duplicate certificate upon a change of name authorized by law of a person holding a certificate under this chapter shall be two dollars ($2).

(i) 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.

SEC. 24.2. Article 8.5 (commencing with Section 6146) is added to Chapter 4 of Division 3 of the Business and Professions Code, to read:

Article 8.5. Contingency Fee Agreements: Medical Injury Tort Claims

6146. (a) An attorney shall not contract for or collect a contingency fee for representing any person seeking damages in connection with an action for injury or damage against a health care provider based upon such person's alleged professional negligence in excess of the following limits:

(1) Forty percent of the first fifty thousand dollars ($50,000) recovered.

(2) Thirty-three and one-third percent of the next fifty thousand dollars ($50,000) recovered.

(3) Twenty-five percent of the next one hundred thousand dollars ($100,000) recovered.

(4) Ten percent of any amount on which the recovery exceeds two hundred thousand dollars ($200,000).

Such limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment, or whether the person for whom the recovery is made is a responsible adult, an infant, or a person of unsound mind.

(b) If periodic payments are awarded to the plaintiff pursuant to Section 667.7 of the Code of Civil Procedure, the court shall place a total value on these payments based upon the projected life expectancy of the plaintiff and include this amount in computing the total award from which attorneys' fees are calculated under this section.

(c) The Board of Governors of the State Bar of California shall report and make recommendations to the Legislature by July 1, 1976, on an equitable method for regulating compensation of defense counsel consistent with the policies embodied in this article regarding regulation of plaintiff's attorney's fees.

(d) For purposes of this section:

(1) "Recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and the attorney's office overhead costs or charges shall not be deductible disbursements or costs for such purpose;

(2) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of

Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(3) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital.

SEC. 24.4. Section 43.8 of the Civil Code is amended to read:

43.8. In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against. any person on account of the communication of information in the possession of such person to any hospital, hospital medical staff, professional society, medical or dental school, professional licensing board or division, committee or panel of such licensing board when such communication is intended to aid in the evaluation of the qualifications, fitness or character of a practitioner of the healing arts and does not represent as true any matter not reasonably believed to be true. The immunities afforded by this section and by Section 43.7 shall not affect the availability of any absolute privilege which may be afforded by Section 47.

SEC. 24.5. Section 3333.1 is added to the Civil Code, to read:

3333.1. (a) In the event the defendant so elects, in an action for personal injury against a health care provider based upon professional negligence, he may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the personal injury pursuant to the United States Social Security Act, any state or federal income disability or worker's compensation act, any health, sickness or income-disability insurance, accident insurance that provides health benefits or income-disability coverage, and any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health care services. Where the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount which the plaintiff has paid or contributed to secure his right to any insurance benefits concerning which the defendant has introduced evidence.

(b) Unless otherwise expressly provided by statute, a collateral source of indemnity described in subdivision (a) shall not be subrogated to the rights of the plaintiff against a defendant.

(c) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of

Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital.

SEC. 24.6. Section 3333.2 is added to the Civil Code, to read:

3333.2. (a) In any action for injury against a health care provider based on professional negligence, the injured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement and other nonpecuniary damage.

(b) In no action shall the amount of damages for noneconomic losses exceed two hundred fifty thousand dollars ($250,000).

SEC. 25. Section 340.5 of the Code of Civil Procedure is amended to read:

340.5. In an action for injury or death against a health care provider, based upon such person's alleged professional negligence,, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of legal action exceed three years unless tolled for any of the following: (1) upon proof of fraud, (2) intentional concealment, or (3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person. Actions by a minor shall be commenced within three years from the date of the alleged wrongful act except that actions by a minor under the full age of six years shall be commenced within three years or prior to his eighth birthday whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which parent or guardian and defendant's insurer or health care provider have committed fraud or collusion in the failure to bring an action on behalf of the injured minor for professional negligence.

For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health

care provider;

(2) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital.

SEC. 25.5. Chapter 5 (commencing with Section 364) is added to Title 2 of Part 2 of the Code of Civil Procedure, to read:

CHAPTER 5. THE COMMENCEMENT OF ACTIONS BASED UPON PROFESSIONAL NEGLIGENCE

364. (a) No action based upon the health care provider's professional negligence may be commenced unless the defendant has been given at least 90 days' prior notice of the intention to commence the action.

(b) No particular form of notice is required, but it shall notify the defendant of the legal basis of the claim and the type of loss sustained, including with specificity the nature of the injuries suffered.

(c) The notice may be served in the manner prescribed in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(d) If the notice is served within 90 days of the expiration of the applicable statute of limitations, the time for the commencement of the action shall be extended 90 days from the service of the notice.

(e) The provisions of this section shall not be applicable with respect to any defendant whose name is unknown to the plaintiff at the time of filing the complaint and who is identified therein by a fictitious name, as provided in Section 474.

(f) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital.

365. Failure to comply with this chapter shall not invalidate any proceedings of any court of this state, nor shall it affect the jurisdiction of the court to render a judgment therein. However,

failure to comply with such provisions by any attorney at law shall be grounds for professional discipline and the State Bar of California shall investigate and take appropriate action in any such cases brought to its attention.

SEC 26. Section 667.7 is added to the Code of Civil Procedure, to read:

667.7. (a) In any action for injury or damages against a provider of health care services, a superior court shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds fifty thousand dollars ($50,000) in future damages. In entering a judgment ordering the payment of future damages by periodic payments, the court shall make a specific finding as to the dollar amount of periodic payments which will compensate the judgment creditor for such future damages. As a condition to authorizing periodic payments of future damages, the court shall require the judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor

(b) (1) The judgment ordering the payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Such payments shall only be subject to modification in the event of the death of the judgment creditor.

(2) In the event that the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the payments, as specified in paragraph (1), the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including court costs and attorney's fees.

(c) However, money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment creditor, but shall be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately prior to his death. In such cases the court which rendered the original judgment, may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subdivision

(d) Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the judgment debtor to make further payments shall cease and any security given pursuant to subdivision (a) shall revert to the judgment debtor.

(e) As used in this section:

(1) "Future damages" includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.

(2) "Periodic payments" means the payment of money or delivery of other property to the judgment creditor at regular intervals.

(3) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider.

(4) "Professional negligence" means an action for personal injury or wrongful death proximately caused by a health care provider's negligent act or omission to act in the rendering of professional services, providing that such services are within the scope of services for which licensed and are not within any restriction imposed by the licensing agency or any licensed hospital.

(f) It is the intent of the Legislature in enacting this section to authorize the entry of judgments in malpractice actions against health care providers which provide for the payment of future damages through periodic payments rather than lump-sum payments. By authorizing periodic payment judgments, it is the further intent of the Legislature that the courts will utilize such judgments to provide compensation sufficient to meet the needs of an injured plaintiff and those persons who are dependent on the plaintiff for whatever period is necessary while eliminating the potential windfall from a lump-sum recovery which was intended to provide for the care of an injured plaintiff over an extended period who then dies shortly after the judgment is paid, leaving the balance of the judgment award to persons and purposes for which it was not intended. It is also the intent of the Legislature that all elements of the periodic payment program be specified with certainty in the judgment ordering such payments and that the judgment not be subject to modification at some future time which might alter the specifications of the original judgment.

SEC. 26.4. Section 674.7 is added to the Code of Civil Procedure, to read:

674.7. A certified copy of any judgment or order of the superior court of this state issued pursuant to Section 667.7, when recorded with the recorder of any county, shall from such recording become a lien upon all real property of the judgment debtor, not exempt from execution, in such county, owned by him at the time, or which he may afterwards and before the lien expires, acquire, for the

respective amounts and installments as they mature (but shall not become a lien for any sum or sums prior to the date they severally become due and payable) which liens shall have, to the extent herein provided and for the period of 10 years from such recording, the same force, effect and priority as the lien created by recordation of an abstract of a money judgment pursuant to Section 674.

The certificate of the judgment debtor, certified by him under penalty of perjury, that all amounts and installments which have matured under said judgment prior to the date of such certificate have been fully paid and satisfied shall, when acknowledged and recorded, be prima facie evidence of such payment and satisfaction and conclusive in favor of any person dealing in good faith and for a valuable consideration with the judgment debtor or his successors in interest.

Whenever a certified copy of any judgment or order of the superior court issued pursuant to Section 667.7 has been recorded with the recorder of any county, the expiration or satisfaction thereof made in the manner of an acknowledgment of a conveyance of real property may be recorded.

SEC. 26.5. Section 1094.5 of the Code of Civil Procedure is amended to read:

1094.5. (a) Where the writ is issued for the purpose of inquiring into the validity of any final administrative order or decision made as the result of a proceeding in which by law a hearing is required to be given, evidence is required to be taken and discretion in the determination of facts is vested in the inferior tribunal, corporation, board or officer, the case shall be heard by the court sitting without a jury. All or part of the record of the proceedings before the inferior tribunal, corporation, board or officer may be filed with the petition, may be filed with respondent's points and authorities or may be ordered to be filed by the court. If the expense of preparing all or any part of the record has been borne by the prevailing party, such expense shall be taxable as costs.

(b) The inquiry in such a case shall extend to the questions whether the respondent has proceeded without, or in excess of jurisdiction; whether there was a fair trial; and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the respondent has not proceeded in the manner required by law, the order or decision is not supported by the findings, or the findings are not supported by the evidence.

(c) Where it is claimed that the findings are not supported by the evidence, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, abuse of discretion is established if the court determines that the findings are not supported by the weight of the evidence; and in all other cases abuse of discretion is established if the court determines that the findings are not supported by substantial evidence in the light of the whole record.

(d) Where the court finds that there is relevant evidence which,

in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before respondent, it may enter judgment as provided in subdivision (e) of this section remanding the case to be reconsidered in the light of such evidence; or, in cases in which the court is authorized by law to exercise its independent judgment on the evidence, the court may admit such evidence at the hearing on the writ without remanding the case.

(e) The court shall enter judgment either commanding respondent to set aside the order or decision, or denying the writ. Where the judgment commands that the order or decision be set aside, it may order the reconsideration of the case in the light of the court's opinion and judgment and may order respondent to take such further action as is specially enjoined upon it by law but the judgment shall not limit or control in any way the discretion legally vested in the respondent.

(f) Except as provided in subdivision (g), the court in which proceedings under this section are instituted may stay the operation of the administrative order or decision pending the judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing such notice whichever occurs first, provided that no such stay shall be imposed or continued if the court is satisfied that it is against the public interest; provided that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which such appeal is taken; provided that, in cases where a stay is in effect at the time of filing the notice of appeal, such stay shall be continued by operation of law for a period of twenty (20) days from the filing of such notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which such appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of such proceedings.

(g) The court in which proceedings under this section are instituted may stay the operation of the administrative order or decision of any licensing board respecting any person licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, except Chapter 11 (commencing with Section 4800) thereof, or licensed pursuant to the Osteopathic Initiative Act or the Chiropractic Initiative Act pending the

judgment of the court, or until the filing of a notice of appeal from the judgment or until the expiration of the time for filing such notice whichever occurs first; provided that such stay shall not be imposed or continued unless the court is satisfied that the public interest will not suffer and the licensing board is unlikely to prevail ultimately on the merits; and provided further that the application for the stay shall be accompanied by proof of service of a copy of the application on the respondent. Service shall be made in the manner provided by Title 5 (commencing with Section 405) of Part 2 or Chapter 5 (commencing with Section 1010) of Title 14 of Part 2. If an appeal is taken from a denial of the writ, the order or decision of the agency shall not be stayed except upon the order of the court to which such appeal is taken; provided that, in cases where a stay is in effect at the time of filing the notice of appeal, such stay shall be continued by operation of law for a period of twenty (20) days from the filing of such notice. If an appeal is taken from the granting of the writ, the order or decision of the agency is stayed pending the determination of the appeal unless the court to which such appeal is taken shall otherwise order. Where any final administrative order or decision is the subject of proceedings under this section, if the petition shall have been filed while the penalty imposed is in full force and effect the determination shall not be considered to have become moot in cases where the penalty imposed by the administrative agency has been completed or complied with during the pendency of such proceedings.

SEC. 26.6. Title 9.1 (commencing with Section 1295) is added to Part 3 of the Code of Civil Procedure, to read:

TITLE 9.1. ARBITRATION OF MEDICAL MALPRACTICE

1295. (a) Any contract for medical services which contains a provision for arbitration of any dispute as to professional negligence shall have such provision as the first article of the contract and shall be expressed in the following language "It is understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. Both parties to this contract, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration."

(b) Immediately before the signature line provided for the individual contracting for the medical services must appear the following in at least 10-point bold red type:

"NOTICE: BY SIGNING THIS CONTRACT YOU ARE AGREEING TO HAVE ANY ISSUE OF MEDICAL MALPRACTICE DECIDED BY NEUTRAL ARBITRATION AND YOU ARE GIVING UP YOUR RIGHT TO A JURY OR COURT TRIAL. SEE ARTICLE 1 OF THIS CONTRACT."

(c) Once signed, such a contract governs all subsequent open-book account transactions for medical services for which the contract was signed until or unless rescinded by written notice within 30 days of signature. Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor.

(d) Where the contract is one for medical services to a minor, it shall not be subject to disaffirmance if signed by the minor's parent or legal guardian.

(e) Such a contract is not a contract of adhesion, nor unconscionable nor otherwise improper, where it complies with subdivisions (a), (b) and (c) of this section.

(f) Subdivision (a) (b) and (c) shall not apply contract to any health care service plan contract offered by an organization registered pursuant to Article 2.5 (commencing with Section 12530), of Division 3 of Title 2 of the Government Code, which has been negotiated to contain an arbitration agreement with subscribers and enrollees under such contract.

SEC. 27. Section 11587 is added to the Insurance Code, to read:

11587. (a) Any insured person who holds a certificate or license issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a license issued pursuant to the Osteopathic Initiative Act, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, who alleges to be aggrieved by any medical malpractice insurance rate adopted by an insurer licensed pursuant to Part 2 (commencing with Section 680) of Division 1 may, in writing, request of such insurer an explanation of the composition of such rate and of its application to him. If such explanation is alleged to be inadequate, insufficient, or is not provided within 30 days after making the request therefor, such person may file a simple petition for hearing with the commissioner. The commissioner shall conduct public hearings within 15 days after a petition has been filed with him to determine whether such rate is justified, according to the provisions of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1.

The public hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that any affected person, or his legal representative, shall, upon application to the commissioner at least five days prior to the hearing, be allowed to reasonably participate in the examination of the insurer. The commissioner shall determine within 45 days after such petition has been filed whether such rate is so justified. In the event the commissioner finds such rate,

or some part thereof, not to be so justified, he shall inform the insurer, in detail, of the facts upon which he bases his conclusion and of the specific provisions of law upon which he relies. In addition, the commissioner shall order the insurer to either reduce the rate to the level deemed by him to be justified or cancel the policy upon 60 days notice to the insured and tender to the insured all of the then unearned premium due such insured. Such order shall be effective 15 days from the date thereof, upon which date such insurer shall mail any cancellation notice required to be given an affected insured.

(b) For the purposes of this section, two or more petitions received by the commissioner alleging grievances concerning one rate adopted by an insurer shall be considered, heard, and determined simultaneously. If additional such petitions alleging substantially similar grievances are received by the commissioner after the issuance of a determination by him upon earlier filed petitions as herein provided, such additional petitions shall be automatically subject to such determination, which fact the commissioner shall communicate in writing to the petitioner and his insurer. The commissioner shall disregard and deny any petition alleging grievances based upon any rate increase not greater than 10 percent of the annualized rate previously charged the petitioner.

(c) Prior to such public hearing the insurer shall submit to the commissioner such information as the commissioner may require to justify the rate increase. Such information shall be a public record and shall be made available upon request to any person, provided that the requesting person shall pay the reasonable cost for the reproduction of such information.

(d) The commissioner shall have the authority to subpoena all books, records, data, and persons deemed necessary to make such a finding pursuant to subdivision (a).

(e) The provisions of this section shall remain in force and effect until December 31, 1977, and on that date, this section is repealed, except that they shall continue in effect from year to year upon a finding by the insurance commissioner 30 days prior to the beginning of each year that there still exists a malpractice insurance crisis.

SEC. 27.5. Section 11588 is added to the Insurance Code, to read:

11588. No insurer authorized to do business in this state and to provide professional liability insurance to persons lawfully engaged in the practice of medicine or osteopathy, health plans, and to partnerships or corporations lawfully engaged in the operation of hospitals, sanitariums, clinics, or other health care facilities, shall refuse to issue or renew insurance at rates which are not excessive or unfairly discriminatory as defined in Section 790.03 to such persons, partnerships or corporations, solely on the grounds that such persons, partnerships or corporations have entered, or intend to enter, into valid written agreements with patients or prospective patients for the arbitration of cases or controversies arising out of the professional or business relationships between such persons, partnerships or corporations and said patients.

SEC. 28. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 29. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

CHAPTER 2

An act to amend Sections 160, 800, 804, 2100.6, 2101, 2116, 2123.1, 2123.2, 2123.3, 2123.9, 2123.10, 2124, 2124.2, 2124.45, 2124.7, 2372, 2372.5, 2454, 2456, 2458, and 6146 of, and to add Sections 2101.7 and 2601.5 to, the Business and Professions Code, to amend Sections 3333.1 and 3333.2 of the Civil Code, to amend Sections 340.5, 364, 667.7, and 1295 of the Code of Civil Procedure, to amend Sections 4040, 11588, 11890, 11895, 11896, 11897, 11898, 11900, 11902, 11902.2, 11903, and 11904 of, and to add Sections 108.5, 1858.05, and 1858.15 to, the Insurance Code, and to amend Section 830.3 of the Penal Code, relating to medical malpractice, and to amend Assembly Bill 1 of the 1975–76 Second Extraordinary Session, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1975 Filed with Secretary of State September 24, 1975]

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

SECTION 1. Section 160 of the Business and Professions Code is amended to read:

160. The Chief and all investigators of the Division of Investigation of the department and all investigators of the Board of Medical Quality Assurance have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them or the division in investigating the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters in this section set forth.

SEC. 1.005. Section 800 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary

Session, is amended to read:

800. (a) The Board of Medical Quality Assurance, the Board of Dental Examiners, the Board of Osteopathic Examiners, the California Board of Registered Nursing, the Board of Vocational Nurse and Psychiatric Technician Examiners, the State Board of Optometry, the Board of Examiners in Veterinary Medicine, and the State Board of Pharmacy shall each separately create and maintain a central file of the names of all persons who hold a license, certificate or similar authority from such board. Each such central file shall be so created and maintained as to provide an individual historical record for each such person with respect to (1) any conviction of a crime in this or any other state which constitutes unprofessional conduct under Section 2383, pursuant to the reporting requirements of Section 803; (2) any judgment or settlement requiring him or his insurer to pay any amount of damages in excess of three thousand dollars ($3,000) with respect to any claim that injury or death was proximately caused by such person's negligence, error or omission in practice or rendering of unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802; (3) any public complaints for which provision is hereinafter made by regulation, pursuant to subdivision (b) of this section; (4) disciplinary information reported pursuant to Section 805.

(b) Each such board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in or connected with the performance of professional services by such person.

Each such complaint shall be immediately forwarded to the appropriate medical quality review committee for action, pursuant to Article 2.3 (commencing with Section 2123) of Chapter 5.

Upon a determination by the committee that the complaint is without merit, the central file shall be purged of information relating to the complaint.

(c) The contents of any central file shall be confidential except that it may be reviewed (1) by the licensee involved or his counsel or representative who may, but is not required to submit any additional exculpatory or explanatory statements or other information, which statements or other information must be included in the file, (2) by any district attorney or representative or investigator therefor who has been assigned to review the activities of a healing arts licentiate, (3) by any representative of the Attorney General's office or investigator thereof who has been assigned to review the activities of a healing arts licentiate, or (4) by any investigator of the Department of Consumer Affairs who has been assigned to review the activities of a healing arts licentiate Such licensee may, but is not required to submit any additional exculpatory or explanatory statements or other information which statements or other information must be included in the file.

SEC. 1.01. Section 804 of the Business and Professions Code, as

added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

804. (a) Any agency to whom reports are to be sent under Section 801, 802, or 803, may develop a prescribed form for the making of such reports, usage of which it may, but need not, by regulation require in all cases.

(b) A report required to be made by Sections 801 and 802 shall be deemed complete only if it includes the following information: (1) the name and last known business and residential addresses of every plaintiff or claimant involved in the matter, whether or not each such person recovered anything; (2) the name and last known business and residential addresses of every physician or provider of health care services who was claimed or alleged to have acted improperly, whether or not such person was a named defendant and whether or not any recovery or judgment was had against such person; (3) the name, address and principal place of business of every insurer providing professional liability insurance as to any person named in (2) and the insured's policy number; (4) the name of the court in which the action or any part of the action was filed along with the date of filing and docket number of each such action; (5) a brief description or summary of the facts upon which each claim, charge or judgment rested including the date of occurrence; (6) the names and last known business and residential addresses of every person who acted as counsel for any party in the litigation or negotiations, along with an identification of the party whom said person represented; (7) the date and amount of final judgment or settlement; and (8) such other information as the agency to whom the reports are to be sent may, by regulation, require.

(c) Every person named in such report, who is notified by the board within 60 days of the filing of the report, shall maintain for the period of three years from the filing of such report any records he has as to the matter in question and shall make those available upon request to the agency with which the report was filed.

SEC. 1.02. Section 2100.6 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2100.6. The Division of Medical Quality shall have responsibility for (a) reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board; (b) the administration and hearing of disciplinary actions; (c) carrying out disciplinary action appropriate to findings made by a medical quality review committee, a hearing officer, or the division.

SEC. 1.035. Section 2101 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the Second Extraordinary Session, is amended to read:

2101. Members of the board shall only be appointed from persons who have been citizens of this state for at least five years next preceding their appointment. Members of the board, except the

public members, shall only be appointed from persons who hold licenses under this chapter or any preceding medical practice act of this state. Five of such licensee members shall be members of the faculty of a clinical department of an approved medical school in the state. The public members shall not be licentiates of the board. No person who in any manner owns any interest in any college, school, or institution engaged in medical instruction shall be appointed to the board. Not more than four members of the board may be full-time members of the faculties of medical schools.

SEC. 1.037. Section 2101.7 is added to the Business and Professions Code, to read:

2101.7. The Governor may remove any member of the board for neglect of duty required by this chapter, incompetency, or unprofessional conduct.

SEC. 1.04. Section 2116 of the Business and Professions Code is amended to read:

2116. The board may prosecute all persons guilty of violating the provisions of this chapter.

It may employ investigators, legal counsel, medical consultants, and any such clerical assistance as it may deem necessary to carry into effect the provisions of this chapter. The board may fix the compensation to be paid for such service and may incur such other expenses as it may deem necessary.

The Attorney General shall act as the legal counsel for the board for any judicial proceedings and, at the board's discretion, for any administrative proceedings and his services shall be a charge against it.

SEC. 1.05. Section 2123.1 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2123.1. As used in this chapter:

(a) "Board" means the Board of Medical Quality Assurance of the State of California.

(b) "Committee" means a medical quality review committee created by this article.

(c) "District" means a district established by Section 2123.2.

(d) "Department" means the Department of Consumer Affairs.

SEC. 1.06. Section 2123.2 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2123.2. The state is divided, for the purposes of this article, into the following 14 districts:

(a) The first district consists of the Counties of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Lake, and Colusa.

(b) The second district consists of the Counties of Sierra, Yuba, Sutter, Yolo, Nevada, Placer, El Dorado, and Sacramento.

(c) The third district consists of the Counties of Sonoma, Napa, and Solano

(d) The fourth district consists of the Counties of Marin, San Francisco, and San Mateo.

(e) The fifth district consists of the Counties of Contra Costa and Alameda.

(f) The sixth district consists of the Counties of Alpine, Amador, Calaveras, Tuolumne, San Joaquin, Stanislaus, and Merced.

(g) The seventh district consists of the County of Santa Clara.

(h) The eighth district consists of the Counties of Santa Cruz, San Benito, Monterey, and San Luis Obispo.

(i) The ninth district consists of the Counties of Mariposa, Madera, Fresno, Kings, Tulare, and Kern.

(j) The 10th district consists of the Counties of Santa Barbara and Ventura.

(k) The 11th district consists of the County of Los Angeles.

(*l*) The 12th district consists of the Counties of Mono, Inyo, San Bernardino, and Riverside.

(m) The 13th district consists of the County of Orange.

(n) The 14th district consists of the Counties of San Diego and Imperial.

SEC. 1.07. Section 2123.3 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2123.3. A medical quality review committee is hereby created for each of the districts established by Section 2123.2. Each committee shall be composed of persons appointed by the Governor from among residents of the district.

The medical quality review committees shall have the following composition:

(a) The first district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(b) The second district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(f) The sixth district shall be composed of 10 members, six of

whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(k) The 11th district shall be composed of 20 members, 12 of whom shall hold valid physician's and surgeon's certificates, four of whom shall be public members, and four of whom shall be nonphysician licentiates of a healing arts board.

(*l*) The 12th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(n) The 14th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

A medical quality review committee may, pursuant to regulations adopted by the Division of Medical Quality, establish panels of five committee members consisting of three physician members, one public member, and one member who is a licentiate of a healing arts board other than the Board of Medical Quality Assurance for the purposes of hearing and deciding cases before a committee. Five members shall constitute a quorum in order for a panel of a committee to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a panel, such majority constituting at least a majority of a minimum quorum for a panel to decide any case, pass any measure, or make any recommendation. Where a medical quality review committee meets as a whole, a majority of the membership of the committee shall constitute a quorum to conduct business. It shall require an affirmative vote of

a majority of those present at a meeting of a committee, such majority constituting at least a majority of a minimum quorum for a committee, to decide any case, pass any measure, or make any recommendation.

A finding or decision by a panel established under this section shall constitute a finding or decision by a committee.

SEC. 1.08. Section 2123.9 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2123.9. Except as otherwise provided in this article, all hearings shall be conducted by a committee or panel of a committee in accordance with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

If a contested case is heard by a committee or panel of a committee, the hearing officer who presided at the hearing shall be present during the committee's consideration of the case and, shall advise the committee or panel on matters of law.

SEC. 1.09. Section 2123.10 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2123.10. Within 30 days of the conclusion of any hearing which is conducted by a committee or panel, the committee or panel shall render its decision. A decision by a committee or panel calling for the discipline of a licensee, or restricting or limiting the extent, scope, or type of practice of the certificate holder for a period of one year or less, or the suspension from practice of a licensee for 30 days or less, shall be final, except where the committee or panel orders reconsideration pursuant to Section 2124.1. Where a committee or panel renders a decision calling for suspension of a license for a period exceeding 30 days, or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year, or revocation of a license, the decision shall constitute a proposed decision to the Division of Medical Quality. The proposed decision shall be subject to the same procedure as the proposed decision of a hearing officer under subdivisions (b) and (c) of Section 11517 of the Government Code. A final decision of a committee shall constitute the decision of the Division of Medical Quality. No suspension for a period exceeding 30 days, or restriction or limitation on the extent, scope, or type of practice of the certificate holder for a period exceeding one year, or revocation of a license shall be carried out except upon order of the Division of Medical Quality.

The Division of Medical Quality shall act upon a proposed decision within 90 days of receiving such decision from a committee

SEC. 1.10. Section 2124 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2124. A medical quality review committee shall have the following authority and duties:

(a) To initiate reviews of the quality of medical care practiced by certificate holders.

(b) To investigate all matters assigned to it by the Division of Medical Quality, and such other matters within the jurisdiction of a committee which it finds warrant action.

(c) To initiate investigations of complaints made by members of the public, and other certificate holders, a health care facility or a division of the board that a certificate holder has been guilty of unprofessional conduct and to report to the complainant within 90 days of the receipt of the complaint by the committee as to the committee's findings and decision. All investigations made pursuant to this section shall be commenced immediately and completed within 90 days, with 30-day progress reports submitted to the Division of Medical Quality.

(d) To investigate the circumstances of practice of any physician and surgeon certificate holder which have resulted in any judgments or settlements requiring the certificate holder or insurer of the certificate holder to pay any amount in damages in excess of a cumulative total of thirty thousand dollars ($30,000) with respect to any claim that injury or damage was proximately caused by the certificate holder's error, negligence, or omission.

(e) Investigations conducted pursuant to this section shall be commenced within 15 days and completed within three months. Where applicable, a progress report shall be issued to the complainants within 30 days of the initiation of the investigation. Once an investigation has been completed and grounds for disciplinary action are found by the Attorney General to exist, the Attorney General shall file an accusation with a committee within 30 days. A hearing shall be held by a committee or a panel of a committee within 45 days of the filing of an accusation.

(f) Where a review or investigation carried out pursuant to subdivision (a), (b), (c), or (d) of this section results in a likelihood or a finding of unprofessional conduct, to hold a hearing pursuant to Section 2123.8 to determine whether unprofessional conduct has occurred.

(f) Upon a finding of unprofessional conduct to take appropriate remedial or disciplinary action in relation to the certificate holder pursuant to Sections 2372, 2372.1, and 2372.5.

(g) Seek injunctions or restraining orders pursuant to Section 2436.

(h) A committee or a panel of a committee which investigates a certificate holder pursuant to this section shall not be the committee or panel of a committee which hears any disciplinary matters resulting from that investigation.

SEC. 1.11. Section 2124.2 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2124.2. The Division of Medical Quality shall adopt, amend, or repeal, in accordance with the provisions of Chapter 4.5

(commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, such regulations as may reasonably be necessary to enable medical quality review committees and panels to carry into effect the provisions of this article.

Failure to comply with the time limitations of Section 2123.10 or 2124 shall not invalidate any proceedings of the Division of Medical Quality, nor shall it affect the jurisdiction of the division to render a decision, but such a failure shall be reported by the division to the Speaker of the Assembly and the President pro Tempore of the Senate within three months.

SEC. 1.12. Section 2124.45 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2124.45. Any physician and surgeon may communicate to the committee or panel regarding any other physician and surgeon. Such communications shall remain confidential and shall not be admissible before any hearing or before any court except that the committee or panel may begin investigation on the basis of such communication and may use such communication to develop further information. Such communication shall be admissible in a defamation action where it is alleged that communication is false and made with malice.

Upon a determination by the committee or panel that the communication is without merit, the central file shall be purged of information relating to the communication.

SEC. 1.13. Section 2124.7 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2124.7. Each insurer shall, within 30 days of such termination, furnish the bureau with the names of all health care providers in this state whose malpractice liability insurance has been terminated. Any health facility that limits or denies a health care provider's privileges shall report such information to the bureau pursuant to Section 805. The bureau, upon the receipt of information submitted pursuant to this section, shall immediately transmit a copy of such information to the named health care provider and the appropriate committee.

SEC. 1.14. Section 2372 of the Business and Professions Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2372. The holder of a certificate whose default has been entered or who has been heard by a committee, panel, or hearing officer thereof and found guilty may:

(a) Have his certificate revoked upon order of the Division of Medical Quality upon recommendation of the committee, panel, or hearing officer thereof;

(b) Have his right to practice suspended for a period not to exceed one year upon order of the Division of Medical Quality upon recommendation of the committee, panel, or hearing officer thereof;

(c) Be placed on probation by the committee;

(d) Have such other action taken in relation to discipline as the

committee, panel, or hearing officer thereof may deem proper.

SEC. 1.15. Section 2372.5 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2372.5. The authority of the Division of Medical Quality, a committee, or a hearing officer thereof to discipline the holder of a certificate by placing him on probation includes, but is not limited to, the following:

(a) Requiring the certificate holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the Division of Medical Quality, a committee, or a hearing officer thereof.

(b) Requiring the certificate holder to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the Division of Medical Quality, a committee, or a hearing officer thereof. If the Division of Medical Quality, a committee, or a hearing officer thereof requires the certificate holders to submit to such an examination, the committee shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the certificate holder's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the certificate holder.

SEC. 1.16. Section 2454 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2454. The receipts of the initial license fees and renewal fees collected by the Board of Medical Quality Assurance from persons licensed under this chapter shall be paid into the Contingent Fund of the Board of Medical Examiners of California which is continued in existence as the Contingent Fund of the Board of Medical Quality Assurance, and shall be used to carry out the provisions of this chapter relating to the compilation, publication, and sale of a directory.

If there is any surplus in these receipts after the expenses of issuing the directories have been paid, such surplus shall be applied solely to expenses incurred under the provisions of this chapter. No surplus in these receipts shall be deposited in or transferred to the General Fund.

SEC 1.17. Section 2456 of the Business and Professions Code, as amended by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2456. All fees earned by the board and all fines and forfeitures of bail to which the board is entitled shall be reported at the beginning of each month, for the month preceding, to the State Controller. At the same time the entire amount of these collections shall be paid into the State Treasury and shall be credited to the contingent fund

of the Board of Medical Quality Assurance.

This contingent fund shall be for the uses of the board and out of it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter. Any surplus accumulating in such contingent fund shall remain in such fund and shall not be transferred to the General Fund.

SEC. 1.175. Section 2458 of the Business and Professions Code, as amended by A.B. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

2458. The amount of fees and refunds prescribed by this chapter in connection with physicians and surgeons certificates, certificates to practice podiatry, certificates to practice midwifery, and certificates of drugless practitioners is that fixed by the following schedule:

(a) The fee for each applicant for a certificate by written examination, unless otherwise provided in this chapter, shall be fixed annually by the board at an amount not to exceed one hundred dollars ($100) nor less than fifteen dollars ($15). If the applicant's credentials are insufficient or if he does not desire to take the examination, the sum of ten dollars ($10) shall be retained and the remainder of the fee is returnable on application.

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a reciprocity certificate, shall pay an application fee in the sum of ten dollars ($10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of one hundred dollars ($100) nor less than five dollars ($5) for the issuance of the certificate.

(c) Each applicant for a certificate under Article 6 shall pay an application fee in the sum of ten dollars ($10) at the time his application is filed. If the applicant qualifies for a certificate, he shall be notified and, in addition to the initial license fee, shall pay a fee which shall be fixed annually by the board at a sum not in excess of forty dollars ($40) nor less than five dollars ($5) for the issuance of the certificate.

(d) The renewal fee shall be fixed by the board at a sum not in excess of one hundred fifty dollars ($150).

(e) The delinquency fee is ten dollars ($10).

(f) The duplicate certificate fee is two dollars ($2).

(g) The endorsement fee is five dollars ($5).

(h) The fee for issuance of a duplicate certificate upon a change of name authorized by law of a person holding a certificate under this chapter shall be two dollars ($2).

(i) 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.

SEC. 1.18. Section 2601.5 is added to the Business and Professions Code, to read:

2601.5. Notwithstanding any other provision of law, the term "board" or "Board of Medical Examiners" as used in this chapter shall mean the Division of Allied Health Professions of the Board of Medical Quality Assurance.

SEC. 1.185. Section 6146 of the Business and Professions Code as added by A.B. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

6146. (a) An attorney shall not contract for or collect a contingency fee for representing any person seeking damages in connection with an action for injury or damage against a health care provider based upon such person's alleged professional negligence in excess of the following limits:

(1) Forty percent of the first fifty thousand dollars ($50,000) recovered.

(2) Thirty-three and one-third percent of the next fifty thousand dollars ($50,000) recovered.

(3) Twenty-five percent of the next one hundred thousand dollars ($100,000) recovered.

(4) Ten percent of any amount on which the recovery exceeds two hundred thousand dollars ($200,000).

Such limitations shall apply regardless of whether the recovery is by settlement, arbitration, or judgment, or whether the person for whom the recovery is made is a responsible adult, an infant, or a person of unsound mind.

(b) If periodic payments are awarded to the plaintiff pursuant to Section 667.7 of the Code of Civil Procedure, the court shall place a total value on these payments based upon the projected life expectancy of the plaintiff and include this amount in computing the total award from which attorneys' fees are calculated under this section.

(c) The Board of Governors of the State Bar of California shall report and make recommendations to the Legislature by July 1, 1976, on an equitable method for regulating compensation of defense counsel consistent with the policies embodied in this article regarding regulation of plaintiff's attorney's fees.

(d) For purposes of this section:

(1) "Recovered" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim. Costs of medical care incurred by the plaintiff and the attorney's office-overhead costs or charges shall not be deductible disbursements or costs for such purpose;

(2) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of

Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(3) "Professional negligence" is a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 1.19. Section 3333.1 of the Civil Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

3333.1. (a) In the event the defendant so elects, in an action for personal injury against a health care provider based upon professional negligence, he may introduce evidence of any amount payable as a benefit to the plaintiff as a result of the personal injury pursuant to the United States Social Security Act, any state or federal income disability or worker's compensation act, any health, sickness or income-disability insurance, accident insurance that provides health benefits or income-disability coverage, and any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health care services. Where the defendant elects to introduce such evidence, the plaintiff may introduce evidence of any amount which the plaintiff has paid or contributed to secure his right to any insurance benefits concerning which the defendant has introduced evidence.

(b) No source of collateral benefits introduced pursuant to subdivision (a) shall recover any amount against the plaintiff nor shall it be subrogated to the rights of the plaintiff against a defendant.

(c) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed

hospital

SEC. 1.191. Section 3333.2 of the Civil Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session is amended to read:

3333.2. (a) In any action for injury against a health care provider based on professional negligence, the injured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement and other nonpecuniary damage.

(b) In no action shall the amount of damages for noneconomic losses exceed two hundred fifty thousand dollars ($250,000).

(c) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 1.192. Section 340.5 of the Code of Civil Procedure, as amended by A.B. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

340.5. In an action for injury or death against a health care provider based upon such person's alleged professional negligence, the time for the commencement of action shall be three years after the date of injury or one year after the plaintiff discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of legal action exceed three years unless tolled for any of the following: (1) upon proof of fraud, (2) intentional concealment, or (3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person. Actions by a minor shall be commenced within three years from the date of the alleged wrongful act except that actions by a minor under the full age of six years shall be commenced within three years or prior to his eighth birthday whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which parent or guardian and defendant's insurer or health care provider have committed fraud or collusion in the failure to bring an action

on behalf of the injured minor for professional negligence.

For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 1.193. Section 364 of the Code of Civil Procedure as added by A.B. 1 of the Second Extraordinary Session, is amended to read:

364 (a) No action based upon the health care provider's professional negligence may be commenced unless the defendant has been given at least 90 days' prior notice of the intention to commence the action.

(b) No particular form of notice is required, but it shall notify the defendant of the legal basis of the claim and the type of loss sustained, including with specificity the nature of the injuries suffered.

(c) The notice may be served in the manner prescribed in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2.

(d) If the notice is served within 90 days of the expiration of the applicable statute of limitations, the time for the commencement of the action shall be extended 90 days from the service of the notice.

(e) The provisions of this section shall not be applicable with respect to any defendant whose name is unknown to the plaintiff at the time of filing the complaint and who is identified therein by a fictitious name, as provided in Section 474.

(f) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means negligent act or omission to

act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 1.194. Section 667.7 of the Code of Civil Procedure, as added by A.B. 1 of the 1975–76 Second Extraordinary Session is amended to read:

667.7. (a) In any action for injury or damages against a provider of health care services, a superior court shall, at the request of either party, enter a judgment ordering that money damages or its equivalent for future damages of the judgment creditor be paid in whole or in part by periodic payments rather than by a lump-sum payment if the award equals or exceeds fifty thousand dollars ($50,000) in future damages. In entering a judgment ordering the payment of future damages by periodic payments, the court shall make a specific finding as to the dollar amount of periodic payments which will compensate the judgment creditor for such future damages. As a condition to authorizing periodic payments of future damages, the court shall require the judgment debtor who is not adequately insured to post security adequate to assure full payment of such damages awarded by the judgment. Upon termination of periodic payments of future damages, the court shall order the return of this security, or so much as remains, to the judgment debtor.

(b) (1) The judgment ordering the payment of future damages by periodic payments shall specify the recipient or recipients of the payments, the dollar amount of the payments, the interval between payments, and the number of payments or the period of time over which payments shall be made. Such payments shall only be subject to modification in the event of the death of the judgment creditor.

(2) In the event that the court finds that the judgment debtor has exhibited a continuing pattern of failing to make the payments, as specified in paragraph (1), the court shall find the judgment debtor in contempt of court and, in addition to the required periodic payments, shall order the judgment debtor to pay the judgment creditor all damages caused by the failure to make such periodic payments, including court costs and attorney's fees.

(c) However, money damages awarded for loss of future earnings shall not be reduced or payments terminated by reason of the death of the judgment creditor, but shall be paid to persons to whom the judgment creditor owed a duty of support, as provided by law, immediately prior to his death. In such cases the court which rendered the original judgment, may, upon petition of any party in interest, modify the judgment to award and apportion the unpaid future damages in accordance with this subdivision.

(d) Following the occurrence or expiration of all obligations specified in the periodic payment judgment, any obligation of the

judgment debtor to make further payments shall cease and any security given, pursuant to subdivision (a) shall revert to the judgment debtor.

(e) As used in this section:

(1) "Future damages" includes damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering of the judgment creditor.

(2) "Periodic payments" means the payment of money or delivery of other property to the judgment creditor at regular intervals.

(3) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider.

(4) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

(f) It is the intent of the Legislature in enacting this section to authorize the entry of judgments in malpractice actions against health care providers which provide for the payment of future damages through periodic payments rather than lump-sum payments. By authorizing periodic payment judgments, it is the further intent of the Legislature that the courts will utilize such judgments to provide compensation sufficient to meet the needs of an injured plaintiff and those persons who are dependent on the plaintiff for whatever period is necessary while eliminating the potential windfall from a lump-sum recovery which was intended to provide for the care of an injured plaintiff over an extended period who then dies shortly after the judgment is paid, leaving the balance of the judgment award to persons and purposes for which it was not intended. It is also the intent of the Legislature that all elements of the periodic payment program be specified with certainty in the judgment ordering such payments and that the judgment not be subject to modification at some future time which might alter the specifications of the original judgment.

SEC. 1.195. Section 1295 of the Code of Civil Procedure as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session is amended to read:

1295. (a) Any contract for medical services which contains a

provision for arbitration of any dispute as to professional negligence of a health care provider shall have such provision as the first article of the contract and shall be expressed in the following language: "It is understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. Both parties to this contract, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration."

(b) Immediately before the signature line provided for the individual contracting for the medical services must appear the following in at least 10-point bold red type:

"NOTICE: BY SIGNING THIS CONTRACT YOU ARE AGREEING TO HAVE ANY ISSUE OF MEDICAL MALPRACTICE DECIDED BY NEUTRAL ARBITRATION AND YOU ARE GIVING UP YOUR RIGHT TO A JURY OR COURT TRIAL. SEE ARTICLE 1 OF THIS CONTRACT."

(c) Once signed, such a contract governs all subsequent open-book account transactions for medical services for which the contract was signed until or unless rescinded by written notice within 30 days of signature. Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor.

(d) Where the contract is one for medical services to a minor, it shall not be subject to disaffirmance if signed by the minor's parent or legal guardian.

(e) Such a contract is not a contract of adhesion, nor unconscionable nor otherwise improper, where it complies with subdivisions (a), (b) and (c) of this section.

(f) Subdivision (a) (b) and (c) shall not apply to any health care service plan contract offered by an organization registered pursuant to Article 2.5 (commencing with Section 12530), of Division 3 of Title 2 of the Government Code, which has been negotiated to contain an arbitration agreement with subscribers and enrollees under such contract.

(g) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

"Health care provider" includes the legal representatives of a health care provider;

(2) Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 1.196. Section 1295 of the Code of Civil Procedure, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

1295. (a) Any contract for medical services which contains a provision for arbitration of any dispute as to professional negligence of a health care provider shall have such provision as the first article of the contract and shall be expressed in the following language: "It is understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. Both parties to this contract, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration."

(b) Immediately before the signature line provided for the individual contracting for the medical services must appear the following in at least 10-point bold red type:

"NOTICE: BY SIGNING THIS CONTRACT YOU ARE AGREEING TO HAVE ANY ISSUE OF MEDICAL MALPRACTICE DECIDED BY NEUTRAL ARBITRATION AND YOU ARE GIVING UP YOUR RIGHT TO A JURY OR COURT TRIAL. SEE ARTICLE 1 OF THIS CONTRACT."

(c) Once signed, such a contract governs all subsequent open-book account transactions for medical services for which the contract was signed until or unless rescinded by written notice within 30 days of signature. Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor.

(d) Where the contract is one for medical services to a minor, it shall not be subject to disaffirmance if signed by the minor's parent or legal guardian.

(e) Such a contract is not a contract of adhesion, nor unconscionable nor otherwise improper, where it complies with subdivisions (a), (b) and (c) of this section.

(f) Subdivision (a) (b) and (c) shall not apply to any health care service plan contract offered by an organization registered pursuant

to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, which has been negotiated to contain an arbitration agreement with subscribers and enrollees under such contract.

(g) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider;

(2) Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

SEC. 1.197. Section 1.196 shall become operative only if both Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session and Assembly Bill No. 138 of the 1975–76 Regular Session become effective, in which case, Section 1.196 shall become operative when both Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session and Assembly Bill No. 138 of the 1975–76 Regular Session become operative and at that time, Section 1.195 shall no longer have any force or effect.

SEC. 1.40. Section 108.5 is added to the Insurance Code, to read:

108.5. "Medical malpractice insurance" means insurance coverage against the legal liability of the insured, and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional services by any person who holds a certificate or license issued pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a license issued pursuant to the Osteopathic Initiative Act, or a license as a health facility pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

SEC. 1.43. Section 1858.05 is added to the Insurance Code, to read:

1858.05. Whenever a written complaint and request for hearing with the commissioner has been filed pursuant to Section 1858, and the complaint concerns medical malpractice insurance, the commissioner shall within 30 days either by order deny the hearing or proceed as provided in Sections 1858.1 or 1858.2. The complainant may petition the court for an order to compel compliance with this

section.

SEC. 1.45. Section 1858.15 is added to the Insurance Code, to read:

1858.15. Once commenced, an examination pursuant to Section 1858.1 shall be promptly conducted and concluded within a reasonable time. If the examination is being conducted as the result of a written complaint and request for hearing filed pursuant to Section 1858, and the complaint concerns medical malpractice insurance, the complainant may petition the court for an order to compel compliance with this section.

SEC. 1.50. Section 4040 of the Insurance Code is amended to read:

4040. A mutual insurer may borrow money to defray the expenses of its organization, provide it with surplus funds, or for any purpose of its business, upon a written agreement that such money is required to be repaid only out of the insurer's surplus in excess of that stipulated in such agreement. The agreement may provide for interest not exceeding either 6 percent per annum, or the maximum interest rate permitted by the Federal Reserve Bank, whichever is the higher rate, on single maturity time deposits in the amount of one hundred thousand dollars ($100,000) and over, running one year or more, which interest shall or shall not constitute a liability of the insurer as to its funds other than as such excess as stipulated in the agreement. Except as provided herein, written agreements evidencing such borrowed money shall not be issued in units of less than ten thousand dollars ($10,000). A mutual insurer authorized to transact medical malpractice insurance, as defined by Section 108.5, may issue such written agreements in units of less than ten thousand dollars ($10,000) but only to issuees who are eligible to purchase medical malpractice insurance from the insurer. No commission or promotion expense shall be paid in connection with any such loan.

SEC. 1.51 Section 11588 of the Insurance Code, as added by Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session, is amended to read:

11588. No insurer authorized to do business in this state and to provide professional liability insurance to persons lawfully engaged in the practice of medicine or osteopathy, health plans, and to partnerships or corporations lawfully engaged in the operation of hospitals, sanitariums, clinics, or other health care facilities, shall refuse to issue or renew insurance at rates which are not excessive or unfairly discriminatory as defined in Section 1852 to such persons, partnerships or corporations, solely on the grounds that such persons, partnerships or corporations have entered, or intend to enter, into valid written agreements with patients or prospective patients for the arbitration of cases or controversies arising out of the professional or business relationships between such persons, partnerships or corporations and said patients.

SEC. 1.60. Section 11890 of the Insurance Code is amended to read:

11890. As used in this article:

(1) "Association" means the Joint Underwriting Association established pursuant to the provisions of this chapter.

(2) "Medical malpractice insurance" means insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of the death or injury of any person as the result of negligence or malpractice in rendering professional service by any licensee.

(3) "Net direct premiums" mean gross direct premiums written on liability insurance in this state, including the liability portion of the multiperil policies and of automobile insurance policies, less return premiums and any surplus premium deposits. "Net direct premiums" shall not mean any reinsurance premiums or premiums for ocean marine insurance.

(4) "Commissioner" means the Insurance Commissioner.

(5) "Licensee" means any person licensed under the State Medical Practice Act, Dental Practice Act, Registered Nursing Practice Act as defined in Chapter 6 of the Business and Professions Code, or Chiropractic Initiative Act, and any health care facility as defined in Section 1250 of the Health and Safety Code.

(6) "Dividends" are excess policyholder funds which are not needed to pay losses or expenses and which are released to the policyholder.

SEC. 2. Section 11895 of the Insurance Code is amended to read:

11895. (a) A temporary Joint Underwriting Association is hereby created consisting of all those insurers authorized to write and engaged in writing within this state on a direct basis, liability insurance including the liability portion of multiperil policies and of automobile insurance policies but not of ocean marine insurance. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to continue to transact such kind of insurance in this state.

(b) The association shall be the exclusive agency through which medical malpractice insurance may be written on a primary basis for licensees in any region in this state, and shall operate on a nonprofit basis. The association may operate in any such region only upon a finding by the commissioner, after public hearing, that medical malpractice insurance is not substantially available to physicians through private insurers in any geographic region defined by him, or upon a finding by the commissioner that the premiums being charged for medical malpractice insurance in any such region are so high as to have caused or threatened to cause in the immediate future a significant unavailability of needed health care service to the residents of such region, or upon a finding by the commissioner that some insured licensees are unable to renew outstanding policies of medical malpractice insurance by virtue of an order prohibiting such renewal by an insurer and that said licensees are not reasonably able to obtain needed insurance coverage through normal channels. Thereafter, if the commissioner determines, upon application of any

interested party and after public hearing, that medical malpractice insurance is available through private insurers in any such region with respect to which he has previously made such finding, the association shall thereupon cease its underwriting operations. Notwithstanding anything to the contrary contained in this code, any licensed health care facility may, but need not, include physicians as additional insureds on any liability insurance contracts held by the facility.

(c) Nothing contained in this chapter shall prohibit (1) any insurer from issuing or renewing any policy of medical malpractice insurance in this state; provided, however, that upon a determination by the commissioner, after public hearing, that substantial adverse selection within any geographical region designated by him against the association has, or will likely, result, the commissioner may issue an order to insurers operating in such region that no original policies shall thereafter be issued or that renewal policies shall be issued only if the insurer will offer such insurance to a representative sample of rating classifications, or both. Each insurer issuing or renewing policies within the region specified in such order shall submit to the commissioner, on a quarterly basis, the number of its insureds in each of its rating classifications in such region, together with such other information as the commissioner may require. Such data shall be provided in such manner and within such times as the commissioner shall establish. The commissioner shall, within 30 days after receipt thereof, make a determination as to the compliance with this subdivision by the filer. The commissioner shall be entitled to inspect at any time a list of each insurer's insureds, grouped according to their rating classifications; or (2) any insurer from issuing or renewing any policy of medical malpractice insurance to any physician and surgeon who specializes in psychiatric medicine.

(d) In order to insure compliance with subdivision (c), the commissioner shall be entitled to inspect at any time a list of each insurer's insureds, grouped according to their rating classifications

SEC. 3. Section 11896 of the Insurance Code is amended to read:

11896. The purpose of the association shall be to provide, for a period ending on March 1, 1978, a market for medical malpractice insurance on a self-supporting basis without subsidy from association members.

SEC. 4. Section 11897 of the Insurance Code is amended to read:

11897. The association shall, pursuant to provisions of this article and the plan of operations with respect to medical malpractice insurance, have the power on behalf of its members to do all the following, which powers may be exercised directly or by contractual delegation:

(a) Issue or cause to be issued policies of medical malpractice insurance to applicants, including incidental coverages and subject to limits as specified in the plan of operation, which shall be offered on the following basis: one hundred thousand dollars ($100,000) for each claimant under one policy, and three hundred thousand dollars

($300,000) for all claimants under one policy in any one year; or, two hundred fifty thousand dollars ($250,000) for each claimant under one policy, and seven hundred fifty thousand dollars ($750,000) for all claimants under one policy in any one year; or, five hundred thousand dollars ($500,000) for each claimant under one policy, and one million five hundred thousand dollars ($1,500,000) for all claimants under one policy in any one year; or, one million dollars ($1,000,000) for each claimant under one policy, and three million dollars ($3,000,000) for all claimants under one policy in any one year.

(b) Underwrite such insurance and adjust and pay losses with respect thereto, or appoint service companies to perform those functions.

(c) Assume reinsurance from its members.

(d) Cede reinsurance.

SEC. 5. Section 11898 of the Insurance Code is amended to read:

11898. The association shall be governed by a board of 11 directors elected annually. Seven of such directors shall be elected at a time and place designated by the commissioner from the members of the association, of which four shall be domestic insurers and three shall be foreign insurers. Four of such directors shall be licensed physicians appointed by the commissioner after consultation with the California Hospital Association, the California Medical Association, and any other representative of the health care system which the commissioner wishes to consult.

SEC. 6. Section 11900 of the Insurance Code is amended to read:

11900. The plan of operation shall be subject to approval by the commissioner after consultation with the members of the association and other affected individuals and organizations. If the commissioner disapproves all or any part of the proposed plan of operation the directors shall, within 15 days, submit for review an appropriate revised plan of operation or a part thereof. If the directors fail to act, the commissioner shall promulgate a plan of operation or a part thereof, as the case may be. The plan of operation approved or promulgated by the commissioner shall become effective and operational upon order of the commissioner, who shall act not later than 60 days from the effective date of this chapter.

Any such plan of operation shall require the association to issue a claims-made policy covering the period from the effective date of this chapter to the date on which the association is in full operation to any person newly licensed under any of the acts specified in Section 11890, subsection (5) or any licensee who qualifies under this chapter. However, such coverage shall be subject to the underwriting standards and cancellation provisions set forth in Sections 11902.1 and 11906. Pending the approval of the operation, the association shall designate a service company or service companies to bind the association for such coverage. Such policies shall make provision for payment of dividends.

SEC. 7. Section 11902 of the Insurance Code is amended to read:

11902. Except as otherwise provided in this chapter, no medical malpractice insurance policy issued by the association shall be on other than a claims-made basis, the policy form for which shall be filed with the commissioner.

SEC. 8. Section 11902.2 of the Insurance Code is amended to read:

11902.2. All policies written by the association shall contain a provision that guarantees the insured that the association shall issue, on the written demand of any licensee to whom it has issued a claims-made policy, a rider to said policy, providing full liability coverage for any acts or omissions by said licensee which occurred during the same period covered by the association's claims-made policy, excluding liability for any claim of injury or loss made to the association during such period.

The premium for the occurrence rider shall not exceed the total amount that the insured would have paid for occurrence policies, if such occurrence policies had been issued to the insured by the association, less the total amount that the insured paid for claims-made policies issued to him by the association. However, if a majority of the board of directors concludes that the occurrence rider premium would be inadequate, the board may request the actuary panel (as provided for in Section 11903) to hold public hearings in order to determine if an assessment should be permitted. Based upon its findings, the actuary panel may recommend an assessment to the Insurance Commissioner not to exceed 10 percent of the initial net occurrence rider premium. Individual policyholders shall be able to pay for an occurrence rider on a quarterly basis for a period not to exceed two years. If the policyholder fails to make payment, the occurrence rider shall be void. Any policyholder electing to pay for the occurrence rider on a deferred payment basis may be assessed a finance charge of not to exceed 6 percent per annum on the unpaid balance. A private insurer issuing a medical malpractice insurance policy on an occurrence or claims-made basis, which replaces or commences coverage upon the expiration of a policy issued by the association, may provide liability coverage for acts or omissions by the insured which occurred during the period the association's policy was in effect, excluding liability for any claim of injury or loss made to the association during such period. The intent of this section is to permit a qualified licensee to purchase an occurrence rider from either the association, or from a private insurer.

SEC. 9. Section 11903 of the Insurance Code is amended to read:

11903. Except as provided to the contrary herein, and notwithstanding the provisions of Section 1860.2, the rates, rating plans, rating rules, rating classifications, and territories applicable to insurance written by the association, and the statistics relating thereto, shall be subject to the provisions of Chapter 9 (commencing with Section 1850) of Part 2 of Division 1, giving due consideration to the past and prospective loss and expense experience of medical

malpractice insurers, trends in the frequency and severity of losses, the investment income of the association, and such other information as may be relevant. The premium rates for an occurrence policy and a claims-made policy for each year the association issues policies shall be established by the association. In determining whether the association's rates are in compliance with Chapter 9 (commencing with Section 1850) of Part 2 of Division 1, the commissioner shall consider recommendations made by a panel consisting of three actuaries. One actuary shall represent the general public, and he shall be appointed by the Insurance Commissioner. One actuary shall represent the medical profession, and he shall be appointed by the Governor from a list of names submitted by the state's professional medical societies. And one actuary shall be appointed by the association's board of directors. The panel shall conduct public rate hearings within 15 days after the submission of such rates by the association, and within 30 days after such hearings the panel shall file its rate recommendations with the commissioner. Thereafter, the panel shall conduct public hearings and make recommendations when requested by the commissioner. Any dissenting panel member may submit minority recommendations.. A hearing officer shall be supplied by the Office of Administrative Hearings solely for the purpose of presiding over the hearings. All rates shall be on an actuarially sound basis, giving due consideration to the group retrospective rating plan, and shall be calculated to be self-supporting. Such rates shall be deemed not inadequate if they are so constituted that the expense and loss costs of the plan of operation are equal to or exceeded by the premium. Competition or lack thereof shall not be considered as a rating standard hereunder.

All policies issued by the association shall be subject to a nonprofit group retrospective rating plan under which the final premium for all policyholders of the association, as a group, shall be equal to administrative expenses, loss and loss adjustment expenses, and taxes, plus an allowance for contingencies and servicing. Policyholders shall be given full credit for all investment income, net of expenses, and a reasonable management fee, on policyholder supplied funds. The maximum final premium for all policyholders of the association, as a group, shall be limited as provided in this chapter.

The commissioner shall make the examination provided for under Article 6 (commencing with Section 1857) of Chapter 9 of Part 2 of Division 1 as often as he deems appropriate to ensure that the group retrospective rating plan is being operated in a manner consistent with this section. If he finds that it is not being so operated, he shall issue an order to the association, specifying in what respect its operation is deficient and stating what corrective action shall be taken.

SEC. 10. Section 11904 of the Insurance Code is amended to read:

11904. The association shall certify to the commissioner the

estimated amount of any deficit remaining after the termination of all underwriting activities of the association. Within 60 days after such certification the commissioner shall authorize the association to commence recoupment of the deficit by making an equitable assessment against any persons who obtained insurance through the association. Any member of the association assessed by or contributing to it shall, upon termination of the association, recoup all such assessments from the association out of a reserve established by it for such purposes. Such reserve shall be funded by premium or assessment income derived from charges to policyholders of the association. Policyholder assessments shall be limited to the 10-percent provision as provided for in Section 11902.2.

SEC. 10.5. Section 830.3 of the Penal Code is amended to read:

830.3. (a) The Deputy Director, Assistant Directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and such investigators who are so designated by the Attorney General, are peace officers.

The authority of any such peace officer extends to any place in the state as to a public offense committed or which there is probable cause to believe has been committed within the state.

(b) Any inspector or investigator regularly employed and paid as such in the office of a district attorney is a peace officer

The authority of any such peace officer extends to any place in the state:

(1) As to any public offense committed, or which there is probable cause to believe has been committed, within the county which employs him; or

(2) Where he has the prior consent of the chief of police, or person authorized by him to give such consent, if the place is within a city or of the sheriff, or person authorized by him to give such consent, if the place is within a county; or

(3) As to any public offense committed or which there is probable cause to believe has been committed in his presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense.

(c) The Director of the Department of Alcoholic Beverage Control and persons employed by such department for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any premises licensed pursuant to the Alcoholic Beverage Control Act.

(d) The Chief and investigators of the Division of Investigation of the Department of Consumer Affairs, and investigators of the Board of Medical Quality Assurance, are peace officers; provided, that the

primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(e) Members of the Wildlife Protection Branch of the Department of Fish and Game deputized pursuant to Section 856 of the Fish and Game Code, deputies appointed pursuant to Section 851 of such code, and county fish and game wardens appointed pursuant to Section 875 of such code are peace officers; provided, that the primary duty of deputized members of the Wildlife Protection Branch, and the exclusive duty, except as provided in Section 8597 of the Government Code, of any other peace officer listed in this subdivision, shall be the enforcement of the provisions of the Fish and Game Code, as such duties are set forth in Sections 856, 851 and 878, respectively, of such code.

(f) The State Forester and such employees or classes of employees of the Division of Forestry of the Department of Conservation and voluntary fire wardens as are designated by him pursuant to Section 4156 of the Public Resources Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of such code.

(g) Officers and employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of such code.

(h) The secretary, chief investigator, and racetrack investigators of the California Horse Racing Board are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code. Any such peace officer is further authorized to enforce any penal provision of law while, in the course of his employment, he is in, on, or about any horseracing enclosure licensed pursuant to the Horse Racing Law.

(i) Police officers of a regional park district, appointed or employed pursuant to Section 5561 of the Public Resources Code, and officers and employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of such code are peace officers; provided, that the primary duty of any such peace officer shall be the enforcement of the law as such duties are set forth in Sections 5561 and 5008, respectively, of such code.

(j) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of such code.

(k) Members of an arson-investigating unit, regularly employed and paid as such, of a fire protection agency of the state, of a county,

city, or district, and members of a fire department of a local agency regularly paid and employed as such, are peace officers; provided, that the primary duty of arson investigators shall be the detection and apprehension of persons who have violated or who are suspected of having violated any fire law, and the exclusive duty, except as provided in Section 8597 of the Government Code, of fire department members other than arson investigators when acting as peace officers shall be the enforcement of laws relating to fire prevention and fire suppression. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, members of fire departments other than arson investigators are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(*l*) The Chief and such inspectors of the Bureau of Food and Drug as are designated by him pursuant to subdivision (a) of Section 216 of the Health and Safety Code are peace officers; provided, that the exclusive duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of such code.

(m) Persons designated by a local agency as park rangers, and regularly employed and paid as such, are peace officers; provided, that the primary duty of any such peace officer shall be the protection of park property and preservation of the peace therein. Notwithstanding the provisions of Section 171c, 171d, 12027, or 12031, such park rangers are not peace officers for purposes of such sections except when designated as peace officers for such purposes by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution.

(n) Members of a community college police department appointed pursuant to Section 25429 of the Education Code are peace officers; provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Section 25429 of the Education Code.

(o) All investigators of the Division of Labor Law Enforcement, as designated by the Labor Commissioner, are peace officers; provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(p) The authority of any peace officer listed in subdivisions (c) through (o), inclusive, extends to any place in the state; provided, that except as otherwise provided in this section, Section 830.6 of this code, or Section 8597 of the Government Code, any such peace officer shall be deemed a peace officer only for purposes of his primary duty, and shall not act as a peace officer in enforcing any other law except:

(1) When in pursuit of any offender or suspected offender; or

(2) To make arrests for crimes committed, or which there is probable cause to believe have been committed, in his presence while he is in the course of his employment; or

(3) When, while in uniform, such officer is requested, as a peace officer, to render such assistance as is appropriate under the circumstances to the person making such request, or to act upon his complaint, in the event that no peace officer otherwise authorized to act in such circumstances is apparently and immediately available and capable of rendering such assistance or taking such action.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

There is a crisis in health care in California because of the inability of many physicians and surgeons to secure malpractice insurance which may cause many of them to leave the private practice of medicine. To help solve this problem, it is imperative that this act take effect immediately.

SEC. 12. The sum of fifteen thousand dollars ($15,000) is hereby appropriated from the General Fund to the Insurance Commissioner as an advance on costs incurred by the Department of Insurance pursuant to Section 1.50 and Sections 1.60 to 11, inclusive of this act. Such sum shall be returned to the General Fund as soon as the department has been reimbursed pursuant to Section 11911 of the Insurance Code.

SEC. 12.5. Section 1 of Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session is amended to read:

Section 1. (a) This act shall be known and may be cited as the Medical Injury Compensation Reform Act.

(b) The Legislature finds and declares that there is a major health care crisis in the State of California attributable to skyrocketing malpractice premium costs and resulting in a potential breakdown of the health delivery system, severe hardships for the medically indigent, a denial of access for the economically marginal, and depletion of physicians such as to substantially worsen the quality of health care available to citizens of this state. The Legislature, acting within the scope of its police powers, finds the statutory remedy herein provided is intended to provide an adequate and reasonable remedy within the limits of what the foregoing public health and safety considerations permit now and into the foreseeable future.

SEC. 13. Sections 1 to 1.197, inclusive, and Sections 1.51, 10.5, and 12.5 shall become operative only if Assembly Bill No. 1 of the 1975–76 Second Extraordinary Session becomes effective, and such sections shall become operative on the effective date of Assembly Bill No. 1 of the Second Extraordinary Session.

SEC. 14. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to the Joint Rules of the Senate and Assembly.

[Filed with Secretary of State May 20, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Temporary Joint Rules of the Senate and Assembly for the 1975–76 Regular Session, except for Joint Rules 55 and 61, be, and the same are hereby, adopted as the Joint Rules of the Senate and Assembly for the 1975–76 Second Extraordinary Session.

RESOLUTION CHAPTER 2

Senate Concurrent Resolution No. 2—Relative to recess of the Legislature.

[Filed with Secretary of State July 1, 1975.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature shall be in recess from the 1975–76 Second Extraordinary Session from adjournment on June 27, 1975, until the time set for reconvening on Monday, August 4, 1975.

RESOLUTION CHAPTER 3

Senate Concurrent Resolution No. 4—Relative to final adjournment of the 1975–76 Second Extraordinary Session of the Legislature.

[Filed with Secretary of State September 16, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the 1975–76 Second Extraordinary Session of the Legislature of the State of California shall adjourn sine die on adjournment on September 12, 1975.

1975–76

THIRD EXTRAORDINARY SESSION

133—3166

PROCLAMATION BY THE GOVERNOR

Convening the Legislature in Third Extraordinary Session

EXECUTIVE DEPARTMENT, STATE OF CALIFORNIA

PROCLAMATION

An extraordinary occasion has arisen requiring that the Legislature of the State of California be assembled in special session.

Therefore, by virtue of Article IV, Section 3 of the Constitution, I hereby assemble the Legislature of the State of California in special session at Sacramento at 1:00 p.m., Tuesday, May 20, 1975, to consider and act on farm labor legislation.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 19th day of May 1975

[SEAL]

EDMUND G BROWN JR.
Governor of California

Attest: MARCH FONG EU
Secretary of State
BY JANECE LONG
Deputy Secretary of State

CHAPTER 1

An act to add Part 3.5 (commencing with Section 1140) to Division 2 of the Labor Code, relating to agricultural labor.

[Approved by Governor June 5, 1975 Filed with Secretary of State June 5, 1975.]

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

SECTION 1. In enacting this legislation the people of the State of California seek to ensure peace in the agricultural fields by guaranteeing justice for all agricultural workers and stability in labor relations.

This enactment is intended to bring certainty and a sense of fair play to a presently unstable and potentially volatile condition in the state. The Legislature recognizes that no law in itself resolves social injustice and economic dislocations.

However, in the belief the people affected desire a resolution to this dispute and will make a sincere effort to work through the procedures established in this legislation, it is the hope of the Legislature that farm laborers, farmers, and all the people of California will be served by the provisions of this act.

SEC. 1.5. It is the intent of the Legislature that collective-bargaining agreements between agricultural employers and labor organizations representing the employees of such employers entered into prior to the effective date of this legislation and continuing beyond such date are not to be automatically canceled, terminated or voided on that effective date; rather, such a collective-bargaining agreement otherwise lawfully entered into and enforceable under the laws of this state shall be void upon the Agricultural Labor Relations Board certification of that election after the filing of an election petition by such employees pursuant to Section 1156.3 of the Labor Code.

SEC. 2. Part 3.5 (commencing with Section 1140) is added to Division 2 of the Labor Code, to read:

PART 3.5. AGRICULTURAL LABOR RELATIONS

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

1140. This part shall be known and may be referred to as the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975.

1140.2. It is hereby stated to be the policy of the State of California to encourage and protect the right of agricultural employees to full freedom of association, self-organization, and designation of representatives of their own choosing, to negotiate the terms and conditions of their employment, and to be free from the

interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection. For this purpose this part is adopted to provide for collective-bargaining rights for agricultural employees.

1140.4. As used in this part:

(a) The term "agriculture" includes farming in all its branches, and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in Section 1141j(g) of Title 12 of the United States Code), the raising of livestock, bees, furbearing animals, or poultry, and any practices (including any forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market and delivery to storage or to market or to carriers for transportation to market.

(b) The term "agricultural employee" or "employee" shall mean one engaged in agriculture, as such term is defined in subdivision (a). However, nothing in this subdivision shall be construed to include any person other than those employees excluded from the coverage of the National Labor Relations Act, as amended, as agricultural employees, pursuant to Section 2(3) of the Labor Management Relations Act (Section 152(3), Title 29, United States Code), and Section 3(f) of the Fair Labor Standards Act (Section 203(f), Title 29, United States Code).

Further, nothing in this part shall apply, or be construed to apply, to any employee who performs work to be done at the site of the construction, alteration, painting, or repair of a building, structure, or other work (as these terms have been construed under Section 8(e) of the Labor Management Relations Act, 29 USC Section 158(e)) or logging or timber-clearing operations in initial preparation of land for farming, or who does land leveling or only land surveying for any of the above.

As used in this subdivision, "land leveling" shall include only major land moving operations changing the contour of the land, but shall not include annual or seasonal tillage or preparation of land for cultivation.

(c) The term "agricultural employer" shall be liberally construed to include any person acting directly or indirectly in the interest of an employer in relation to an agricultural employee, any individual grower, corporate grower, cooperative grower, harvesting association, hiring association, land management group, any association of persons or cooperatives engaged in agriculture, and shall include any person who owns or leases or manages land used for agricultural purposes, but shall exclude any person supplying agricultural workers to an employer, any farm labor contractor as defined by Section 1682, and any person functioning in the capacity

of a labor contractor. The employer engaging such labor contractor or person shall be deemed the employer for all purposes under this part.

(d) The term "person" shall mean one or more individuals, corporations, partnerships, associations, legal representatives, trustees in bankruptcy, receivers, or any other legal entity, employer, or labor organization having an interest in the outcome of a proceeding under this part.

(e) The term "representatives" includes any individual or labor organization.

(f) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists, in whole or in part, for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work for agricultural employees.

(g) The term "unfair labor practice" means any unfair labor practice specified in Chapter 4 (commencing with Section 1153) of this part.

(h) The term "labor dispute" includes any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

(i) The term "board" means Agricultural Labor Relations Board.

(j) The term "supervisor" means any individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

CHAPTER 2. AGRICULTURAL LABOR RELATIONS BOARD

Article 1. Agricultural Labor Relations Board: Organization

1141. (a) There is hereby created in state government the Agricultural Labor Relations Board, which shall consist of five members.

(b) The members of the board shall be appointed by the Governor with the advice and consent of the Senate. The term of office of the members shall be five years, and the terms shall be staggered at one-year intervals. Upon the initial appointment, one member shall be appointed for a term ending January 1, 1977, one member shall be appointed for a term ending January 1, 1978, one

member shall be appointed for a term ending January 1, 1979, one member shall be appointed for a term ending January 1, 1980, and one member shall be appointed for a term ending January 1, 1981. Any individual appointed to fill a vacancy of any member shall be appointed only for the unexpired term of the member to whose term he is succeeding. The Governor shall designate one member to serve as chairperson of the board. Any member of the board may be removed by the Governor, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other cause.

1142. (a) The principal office of the board shall be in Sacramento, but it may meet and exercise any or all of its power at any other place in California.

(b) Besides the principal office in Sacramento, as provided in subdivision (a), the board may establish offices in such other cities as it shall deem necessary. The board may delegate to the personnel of these offices such powers as it deems appropriate to determine the unit appropriate for the purpose of collective bargaining, to investigate and provide for hearings, to determine whether a question of representation exists, to direct an election by a secret ballot pursuant to the provisions of Chapter 5 (commencing with Section 1156), and to certify the results of such election, and to investigate, conduct hearings and make determinations relating to unfair labor practices. The board may review any action taken pursuant to the authority delegated under this section upon a request for a review of such action filed with the board by an interested party. Any such review made by the board shall not, unless specifically ordered by the board, operate as a stay of any action taken. The entire record considered by the board in considering or acting upon any such request or review shall be made available to all parties prior to such consideration or action, and the board's findings and action thereon shall be published as a decision of the board.

1143. The board shall, at the close of each fiscal year, make a report in writing to the Legislature and to the Governor stating in detail the cases it has heard, the decisions it has rendered, the names, salaries, and duties of all employees and officers in the employ or under the supervision of the board, and an account of all moneys it has disbursed.

1144. The board may from time to time make, amend, and rescind, in the manner prescribed in Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, such rules and regulations as may be necessary to carry out the provisions of this part.

1145. The board may appoint an executive secretary and such attorneys, hearing officers, administrative law officers, and other employees as it may from time to time find necessary for the proper performance of its duties. Attorneys appointed pursuant to this section may, at the discretion of the board, appear for and represent the board in any case in court.

1146. The board is authorized to delegate to any group of three

or more board members any or all the powers which it may itself exercise. A vacancy in the board shall not impair the right of the remaining members to exercise all the powers of the board, and three members shall at all times constitute a quorum. A vacancy shall be filled in the same manner as an original appointment.

1147. The annual salary of a member of the board shall be forty-two thousand five hundred dollars ($42,500).

1148. The board shall follow applicable precedents of the National Labor Relations Act, as amended.

1149. There shall be a general counsel of the board who shall be appointed by the Governor, subject to confirmation by a majority of the Senate, for a term of four years. The general counsel shall have the power to appoint such attorneys, administrative assistants, and other employees as necessary for the proper exercise of his duties. The general counsel of the board shall exercise general supervision over all attorneys employed by the board (other than administrative law officers and legal assistants to board members), and over the officers and employees in the regional offices. He shall have final authority, on behalf of the board, with respect to the investigation of charges and issuance of complaints under Chapter 6 (commencing with Section 1160) of this part, and with respect to the prosecution of such complaints before the board. He shall have such other duties as the board may prescribe or as may be provided by law. In case of a vacancy in the office of the general counsel, the Governor is authorized to designate the officer or employee who shall act as general counsel during such vacancy, but no person or persons so designated shall so act either (1) for more than 40 days when the Legislature is in session unless a nomination to fill such vacancy shall have been submitted to the Senate, or (2) after the adjournment sine die of the session of the Senate in which such nomination was submitted.

1150. Each member of the board and the general counsel of the board shall be eligible for reappointment, and shall not engage in any other business, vocation, or employment.

Article 2. Investigatory Powers

1151. For the purpose of all hearings and investigations, which, in the opinion of the board, are necessary and proper for the exercise of the powers vested in it by Chapters 5 (commencing with Section 1156) and 6 (commencing with Section 1160) of this part:

(a) The board, or its duly authorized agents or agencies, shall at all reasonable times have access to, for the purpose of examination, and the right to copy, any evidence of any person being investigated or proceeded against that relates to any matter under investigation or in question. The members of the board or their designees or their duly authorized agents shall have the right of free access to all places of labor. The board, or any member thereof, shall upon application of any party to such proceedings, forthwith issue to such party

subpoenas requiring the attendance and testimony of witnesses or the production of any evidence in such proceeding or investigation requested in such application. Within five days after the service of a subpoena on any person requiring the production of any evidence in his possession or under his control, such person may petition the board to revoke, and the board shall revoke, such subpoena if in its opinion the evidence whose production is required does not relate to any matter under investigation, or any matter in question in such proceedings, or if in its opinion such subpoena does not describe with sufficient particularity the evidence whose production is required. Any member of the board, or any agent or agency designated by the board for such purposes, may administer oaths and affirmations, examine witnesses, and receive evidence. Such attendance of witnesses and the production of such evidence may be required from any place in the state at any designated place of hearing.

(b) In case of contumacy or refusal to obey a subpoena issued to any person, any superior court in any county within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which such person allegedly guilty of contumacy or refusal to obey is found or resides or transacts business, shall, upon application by the board, have jurisdiction to issue to such person an order requiring such person to appear before the board, its member, agent, or agency, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

1151.2. No person shall be excused from attending and testifying, or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the board, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

1151.3. Any party shall have the right to appear at any hearing in person, by counsel, or by other representative.

1151.4. (a) Complaints, orders, and other process and papers of the board, its members, agents, or agency, may be served either personally or by registered mail or by telegraph, or by leaving a copy thereof at the principal office or place of business of the person required to be served. The verified return by the individual so serving the same setting forth the manner of such service shall be proof of the same, and the return post office receipt or telegraph receipt therefor when registered and mailed or telegraphed as provided in this subdivision shall be proof of service of the same. Witnesses summoned before the board, its members, agents, or

agency, shall be paid the same fees and mileage that are paid witnesses in the courts of the state, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the state.

(b) All process of any court to which application may be made under this part may be served in the county where the defendant or other person required to be served resides or may be found.

1151.5. The several departments and agencies of the state upon request by the board, shall furnish the board all records, papers, and information in their possession, not otherwise privileged, relating to any matter before the board.

1151.6. Any person who shall willfully resist, prevent, impede, or interfere with any member of the board or any of its agents or agencies in the performance of duties pursuant to this part shall be guilty of a misdemeanor, and shall be punished by a fine of not more than five thousand ($5,000) dollars.

CHAPTER 3. RIGHTS OF AGRICULTURAL EMPLOYEES

1152. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from any or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of continued employment as authorized in subdivision (c) of Section 1153.

CHAPTER 4. UNFAIR LABOR PRACTICES AND REGULATION OF SECONDARY BOYCOTTS

1153. It shall be an unfair labor practice for an agricultural employer to do any of the following:

(a) To interfere with, restrain, or coerce agricultural employees in the exercise of the rights guaranteed in Section 1152.

(b) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it. However, subject to such rules and regulations as may be made and published by the board pursuant to Section 1144, an agricultural employer shall not be prohibited from permitting agricultural employees to confer with him during working hours without loss of time or pay.

(c) By discrimination in regard to the hiring or tenure of employment, or any term or condition of employment, to encourage or discourage membership in any labor organization.

Nothing in this part, or in any other statute of this state, shall preclude an agricultural employer from making an agreement with a labor organization (not established, maintained, or assisted by any

action defined in this section as an unfair labor practice) to require as a condition of employment, membership therein on or after the fifth day following the beginning of such employment, or the effective date of such agreement whichever is later, if such labor organization is the representative of the agricultural employees as provided in Section 1156 in the appropriate collective-bargaining unit covered by such agreement. No employee who has been required to pay dues to a labor organization by virtue of his employment as an agricultural worker during any calendar month, shall be required to pay dues to another labor organization by virtue of similar employment during such month. For purposes of this chapter, membership shall mean the satisfaction of all reasonable terms and conditions uniformly applicable to other members in good standing; provided, that such membership shall not be denied or terminated except in compliance with a constitution or bylaws which afford full and fair rights to speech, assembly, and equal voting and membership privileges for all members, and which contain adequate procedures to assure due process to members and applicants for membership.

(d) To discharge or otherwise discriminate against an agricultural employee because he has filed charges or given testimony under this part.

(e) To refuse to bargain collectively in good faith with labor organizations certified pursuant to the provisions of Chapter 5 (commencing with Section 1156) of this part.

(f) To recognize, bargain with, or sign a collective-bargaining agreement with any labor organization not certified pursuant to the provisions of this part.

1154. It shall be an unfair labor practice for a labor organization or its agents to do any of the following:

(a) To restrain or coerce:

(1) Agricultural employees in the exercise of the rights guaranteed in Section 1152. This paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein.

(2) An agricultural employer in the selection of his representatives for the purposes of collective bargaining or the adjustment of grievances.

(b) To cause or attempt to cause an agricultural employer to discriminate against an employee in violation of subdivision (c) of Section 1153, or to discriminate against an employee with respect to whom membership in such organization has been denied or terminated for reasons other than failure to satisfy the membership requirements specified in subdivision (c) of Section 1153.

(c) To refuse to bargain collectively in good faith with an agricultural employer, provided it is the representative of his employees subject to the provisions of Chapter 5 (commencing with Section 1156) of this part.

(d) To do either of the following: (i) To engage in, or to induce

or encourage any individual employed by any person to engage in, a strike or a refusal in the course of his employment to use, manufacture, process, transport, or otherwise handle or work on any goods, articles, materials, or commodities, or to perform any services; or (ii) to threaten, coerce, or restrain any person; where in either case (i) or (ii) an object thereof is any of the following:

(1) Forcing or requiring any employer or self-employed person to join any labor or employer organization or to enter into any agreement which is prohibited by Section 1154.5.

(2) Forcing or requiring any person to cease using, selling, transporting, or otherwise dealing in the products of any other producer, processor, or manufacturer, or to cease doing business with any other person, or forcing or requiring any other employer to recognize or bargain with a labor organization as the representative of his employees unless such labor organization has been certified as the representative of such employees. Nothing contained in this paragraph shall be construed to make unlawful, where not otherwise unlawful, any primary strike or primary picketing.

(3) Forcing or requiring any employer to recognize or bargain with a particular labor organization as the representative of his agricultural employees if another labor organization has been certified as the representative of such employees under the provisions of Chapter 5 (commencing with Section 1156) of this part.

(4) Forcing or requiring any employer to assign particular work to employees in a particular labor organization or in a particular trade, craft, or class, unless such employer is failing to conform to an order or certification of the board determining the bargaining representative for employees performing such work.

Nothing contained in this subdivision (d) shall be construed to prohibit publicity, including picketing for the purpose of truthfully advising the public, including consumers, that a product or products or ingredients thereof are produced by an agricultural employer with whom the labor organization has a primary dispute and are distributed by another employer, as long as such publicity does not have an effect of inducing any individual employed by any person other than the primary employer in the course of his employment to refuse to pick up, deliver, or transport any goods, or not to perform any services at the establishment of the employer engaged in such distribution, and as long as such publicity does not have the effect of requesting the public to cease patronizing such other employer.

However, publicity which includes picketing and has the effect of requesting the public to cease patronizing such other employer, shall be permitted only if the labor organization is currently certified as the representative of the primary employer's employees.

Further, publicity other than picketing, but including peaceful distribution of literature which has the effect of requesting the public to cease patronizing such other employer, shall be permitted only if the labor organization has not lost an election for the primary employer's employees within the preceding 12-month period, and no

other labor organization is currently certified as the representative of the primary employer's employees.

Nothing contained in this subdivision (d) shall be construed to prohibit publicity, including picketing, which may not be prohibited under the United States Constitution or the California Constitution.

Nor shall anything in this subdivision (d) be construed to apply or be applicable to any labor organization in its representation of workers who are not agricultural employees. Any such labor organization shall continue to be governed in its intrastate activities for nonagricultural workers by Section 923 and applicable judicial precedents.

(e) To require of employees covered by an agreement authorized under subdivision (c) of Section 1153 the payment, as a condition precedent to becoming a member of such organization, of a fee in an amount which the board finds excessive or discriminatory under all circumstances. In making such a finding, the board shall consider, among other relevant factors, the practices and customs of labor organizations in the agriculture industry and the wages currently paid to the employees affected.

(f) To cause or attempt to cause an agricultural employer to pay or deliver, or agree to pay or deliver, any money or other thing of value, in the nature of an exaction, for services which are not performed or not to be performed.

(g) To picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object thereof is either forcing or requiring an employer to recognize or bargain with a labor organization as the representative of his employees, or forcing or requiring the employees of an employer to accept or select such labor organization as their collective-bargaining representative, unless such labor organization is currently certified as the representative of such employees, in any of the following cases:

(1) Where the employer has lawfully recognized in accordance with this part any other labor organization and a question concerning representation may not appropriately be raised under Section 1156.3.

(2) Where within the preceding 12 months a valid election under Chapter 5 (commencing with Section 1156) of this part has been conducted.

Nothing in this subdivision shall be construed to prohibit any picketing or other publicity for the purpose of truthfully advising the public (including consumers) that an employer does not employ members of, or have a contract with, a labor organization, unless an effect of such picketing is to induce any individual employed by any other person in the course of his employment, not to pick up, deliver, or transport any goods or not to perform any services.

Nothing in this subdivision (g) shall be construed to permit any act which would otherwise be an unfair labor practice under this section.

(h) To picket or cause to be picketed, or threaten to picket or cause to be picketed, any employer where an object thereof is either forcing or requiring an employer to recognize or bargain with the

labor organization as a representative of his employees unless such labor organization is currently certified as the collective-bargaining representative of such employees.

(i) Nothing contained in this section shall be construed to make unlawful a refusal by any person to enter upon the premises of any agricultural employer, other than his own employer, if the employees of such employer are engaged in a strike ratified or approved by a representative of such employees whom such employer is required to recognize under this part.

1154.5. It shall be an unfair labor practice for any labor organization which represents the employees of the employer and such employer to enter into any contract or agreement, express or implied, whereby such employer ceases or refrains, or agrees to cease or refrain, from handling, using, selling, transporting, or otherwise dealing in any of the products of any other employer, or to cease doing business with any other person, and any contract or agreement entered into heretofore or hereafter containing such an agreement shall be, to such extent, unenforceable and void. Nothing in this section shall apply to an agreement between a labor organization and an employer relating to a supplier of an ingredient or ingredients which are integrated into a product produced or distributed by such employer where the labor organization is certified as the representative of the employees of such supplier, but no collective-bargaining agreement between such supplier and such labor organization is in effect. Further, nothing in this section shall apply to an agreement between a labor organization and an agricultural employer relating to the contracting or subcontracting of work to be done at the site of the farm and related operations. Nothing in this part shall prohibit the enforcement of any agreement which is within the foregoing exceptions.

Nor shall anything in this section be construed to apply or be applicable to any labor organization in its representation of workers who are not agricultural employees. Any such labor organization shall continue to be governed in its intrastate activities for nonagricultural workers by Section 923 and applicable judicial precedents.

1154.6. It shall be an unfair labor practice for an employer or labor organization, or their agents, willfully to arrange for persons to become employees for the primary purpose of voting in elections.

1155. The expressing of any views, arguments, or opinions, or the dissemination thereof, whether in written, printed, graphic, or visual form, shall not constitute evidence of an unfair labor practice under the provisions of this part, if such expression contains no threat of reprisal or force, or promise of benefit.

1155.2. (a) For purposes of this part, to bargain collectively in good faith is the performance of the mutual obligation of the agricultural employer and the representative of the agricultural employees to meet at reasonable times and confer in good faith with respect to wages, hours, and other terms and conditions of

employment, or the negotiation of an agreement, or any questions arising thereunder, and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.

(b) Upon the filing by any person of a petition not earlier than the 90th day nor later than the 60th day preceding the expiration of the 12-month period following initial certification, the board shall determine whether an employer has bargained in good faith with the currently certified labor organization. If the board finds that the employer has not bargained in good faith, it may extend the certification for up to one additional year, effective immediately upon the expiration of the previous 12-month period following initial certification.

1155.3. (a) Where there is in effect a collective-bargaining contract covering agricultural employees, the duty to bargain collectively shall also mean that no party to such contract shall terminate or modify such contract, unless the party desiring such termination or modification does all of the following:

(1) Serves a written notice upon the other party to the contract of the proposed termination or modification not less than 60 days prior to the expiration date thereof, or, in the event such contract contains no expiration date, 60 days prior to the time it is proposed to make such termination or modification.

(2) Offers to meet and confer with the other party for the purpose of negotiating a new contract or a contract containing the proposed modifications.

(3) Notifies the Conciliation Service of the State of California within 30 days after such notice of the existence of a dispute, provided no agreement has been reached by that time.

(4) Continues in full force and effect, without resorting to strike or lockout, all the terms and conditions of the existing contract, for a period of 60 days after such notice is given, or until the expiration date of such contract, whichever occurs later.

(b) The duties imposed upon agricultural employers and labor organizations by paragraphs (2), (3), and (4) of subdivision (a) shall become inapplicable upon an intervening certification of the board that the labor organization or individual which is a party to the contract has been superseded as, or has ceased to be the representative of the employees, subject to the provisions of Chapter 5 (commencing with Section 1156) of this part, and the duties so imposed shall not be construed to require either party to discuss or agree to any modification of the terms and conditions contained in a contract for a fixed period, if such modification is to become effective before such terms and conditions can be reopened under the provisions of the contract. Any agricultural employee who engages in a strike within the 60-day period specified in this section shall lose his status as an agricultural employee of the agricultural employer engaged in the particular labor dispute, for the purposes

of Section 1153 to 1154 inclusive, and Chapters 5 (commencing with Section 1156) and 6 (commencing with Section 1160) of this part, but such loss of status for such employee shall terminate if and when he is reemployed by such employer.

1155.4. It shall be unlawful for any agricultural employer or association of agricultural employers, or any person who acts as a labor relations expert, adviser, or consultant to an agricultural employer, or who acts in the interest of an agricultural employer, to pay, lend, or deliver, any money or other thing of value to any of the following:

(a) Any representative of any of his agricultural employees.

(b) Any agricultural labor organization, or any officer or employee thereof, which represents, seeks to represent, or would admit to membership, any of the agricultural employees of such employer.

(c) Any employee or group or committee of employees of such employer in excess of their normal compensation for the purpose of causing such employee or group or committee directly or indirectly to influence any other employees in the exercise of the right to organize and bargain collectively through representatives of their own choosing.

(d) Any officer or employee of an agricultural labor organization with intent to influence him in respect to any of his actions, decisions, or duties as a representative of agricultural employees or as such officer or employee of such labor organization.

1155.5. It shall be unlawful for any person to request, demand, receive, or accept, or agree to receive or accept, any payment, loan, or delivery of any money or other thing of value prohibited by Section 1155.4.

1155.6. Nothing in Section 1155.4 or 1155.5 shall apply to any matter set forth in subsection (c) of Section 186 of Title 29 of the United States Code.

1155.7. Nothing in this chapter shall be construed to apply or be applicable to any labor organization in its representation of workers who are not agricultural employees. Any such labor organization shall continue to be governed in its intrastate activities for nonagricultural workers by Section 923 and applicable judicial precedents.

CHAPTER 5. LABOR REPRESENTATIVES AND ELECTIONS

1156. Representatives designated or selected by a secret ballot for the purposes of collective bargaining by the majority of the agricultural employees in the bargaining unit shall be the exclusive representatives of all the agricultural employees in such unit for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment, or other conditions of employment. Any individual agricultural employee or a group of agricultural employees shall have the right at any time to present grievances to

their agricultural employer and to have such grievances adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of a collective-bargaining contract or agreement then in effect, if the bargaining representative has been given opportunity to be present at such adjustment.

1156.2. The bargaining unit shall be all the agricultural employees of an employer. If the agricultural employees of the employer are employed in two or more noncontiguous geographical areas, the board shall determine the appropriate unit or units of agricultural employees in which a secret ballot election shall be conducted.

1156.3. (a) A petition which is either signed by, or accompanied by authorization cards signed by, a majority of the currently employed employees in the bargaining unit may be filed in accordance with such rules and regulations as may be prescribed by the board, by an agricultural employee or group of agricultural employees, or any individual or labor organization acting in their behalf alleging all the following:

(1) That the number of agricultural employees currently employed by the employer named in the petition, as determined from his payroll immediately preceding the filing of the petition, is not less than 50 percent of his peak agricultural employment for the current calendar year.

(2) That no valid election pursuant to this section has been conducted among the agricultural employees of the employer named in the petition within the 12 months immediately preceding the filing thereof.

(3) That no labor organization is currently certified as the exclusive collective-bargaining representative of the agricultural employees of the employer named in the petition.

(4) That the petition is not barred by an existing collective-bargaining agreement.

Upon receipt of such a signed petition, the board shall immediately investigate such petition, and, if it has reasonable cause to believe that a bona fide question of representation exists, it shall direct a representation election by secret ballot to be held, upon due notice to all interested parties and within a maximum of seven days of the filing of the petition. If at the time the election petition is filed a majority of the employees in a bargaining unit are engaged in a strike, the board shall, with all due diligence, attempt to hold a secret ballot election within 48 hours of the filing of such petition. The holding of elections under strike circumstances shall take precedence over the holding of other secret ballot elections.

The board shall make available at any election under this chapter ballots printed in English and Spanish. The board may also make available at such election ballots printed in any other language as may be requested by an agricultural labor organization, or agricultural employee eligible to vote under this part. Every election

ballot, except ballots in runoff elections where the choice is between labor organizations, shall provide the employee with the opportunity to vote against representation by a labor organization by providing an appropriate space designated "No Labor Organizations".

(b) Any other labor organization shall be qualified to appear on the ballot if it presents authorization cards signed by at least 20 percent of the employees in the bargaining unit at least 24 hours prior to the election.

(c) Within five days after an election, any person may file with the board a signed petition asserting that allegations made in the petition filed pursuant to subdivision (a) were incorrect, that the board improperly determined the geographical scope of the bargaining unit, or objecting to the conduct of the election or conduct affecting the results of the election.

Upon receipt of a petition under this subdivision, the board, upon due notice, shall conduct a hearing to determine whether the election shall be certified. Such hearing may be conducted by an officer or employee of a regional office of the board. He shall make no recommendations with respect thereto. If the board finds, on the record of such hearing, that any of the assertions made in the petition filed pursuant to this subdivision are correct, or that the election was not conducted properly, or misconduct affecting the results of the election occurred, the board may refuse to certify the election. Unless the board determines that there are sufficient grounds to refuse to do so, it shall certify the election.

(d) If no petition is filed pursuant to subdivision (c) within five days of the election the board shall certify the election.

(e) The board shall decertify a labor organization if the United States Equal Employment Opportunity Commission has found, pursuant to Section 2000(e) (5) of Title 42 of the United States Code, that the labor organization engaged in discrimination on the basis of race, color, national origin, religion, sex or any other arbitrary or invidious classification in violation of Subchapter VI of Chapter 21 of Title 42 of the United States Code during the period of such labor organization's present certification.

1156.4. Recognizing that agriculture is a seasonal occupation for a majority of agricultural employees, and wishing to provide the fullest scope for employees' enjoyment of the rights included in this part, the board shall not consider a representation petition or a petition to decertify as timely filed unless the employer's payroll reflects 50 percent of the peak agricultural employment for such employer for the current calendar year for the payroll period immediately preceding the filing of the petition.

In this connection, the peak agricultural employment for the prior season shall alone not be a basis for such determination, but rather the board shall estimate peak employment on the basis of acreage and crop statistics which shall be applied uniformly throughout the State of California and upon all other relevant data.

1156.5. The board shall not direct an election in any bargaining

unit where a valid election has been held in the immediately preceding 12-month period.

1156.6. The board shall not direct an election in any bargaining unit which is represented by a labor organization that has been certified within the immediately preceding 12-month period or whose certification has been extended pursuant to subdivision (b) of Section 1155.2.

1156.7. (a) No collective-bargaining agreement executed prior to the effective date of this chapter shall bar a petition for an election.

(b) A collective-bargaining agreement executed by an employer and a labor organization certified as the exclusive bargaining representative of his employees pursuant to this chapter shall be a bar to a petition for an election among such employees for the term of the agreement, but in any event such bar shall not exceed three years, provided that both the following conditions are met:

(1) The agreement is in writing and executed by all parties thereto.

(2) It incorporates the substantive terms and conditions of employment of such employees.

(c) Upon the filing with the board by an employee or group of employees of a petition signed by 30 percent or more of the agricultural employees in a bargaining unit represented by a certified labor organization which is a party to a valid collective-bargaining agreement, requesting that such labor organization be decertified, the board shall conduct an election by secret ballot pursuant to the applicable provisions of this chapter, and shall certify the results to such labor organization and employer.

However, such a petition shall not be deemed timely unless it is filed during the year preceding the expiration of a collective-bargaining agreement which would otherwise bar the holding of an election, and when the number of agricultural employees is not less than 50 percent of the employer's peak agricultural employment for the current calendar year.

(d) Upon the filing with the board of a signed petition by an agricultural employee or group of agricultural employees, or any individual or labor organization acting in their behalf, accompanied by authorization cards signed by a majority of the employees in an appropriate bargaining unit, and alleging all the conditions of paragraphs (1), (2), and (3), the board shall immediately investigate such petition and, if it has reasonable cause to believe that a bona fide question of representation exists, it shall direct an election by secret ballot pursuant to the applicable provisions of this chapter:

(1) That the number of agricultural employees currently employed by the employer named in the petition, as determined from his payroll immediately preceding the filing of the petition, is not less than 50 percent of his peak agricultural employment for the current calendar year.

(2) That no valid election pursuant to this section has been conducted among the agricultural employees of the employer

named in the petition within the 12 months immediately preceding the filing thereof.

(3) That a labor organization, certified for an appropriate unit, has a collective-bargaining agreement with the employer which would otherwise bar the holding of an election and that this agreement will expire within the next 12 months.

1157. All agricultural employees of the employer whose names appear on the payroll applicable to the payroll period immediately preceding the filing of the petition of such an election shall be eligible to vote. An economic striker shall be eligible to vote under such regulations as the board shall find are consistent with the purposes and provisions of this part in any election, provided that the striker who has been permanently replaced shall not be eligible to vote in any election conducted more than 12 months after the commencement of the strike.

In the case of elections conducted within 18 months of the effective date of this part which involve labor disputes which commenced prior to such effective date, the board shall have the jurisdiction to adopt fair, equitable, and appropriate eligibility rules, which shall effectuate the policies of this part, with respect to the eligibility of economic strikers who were paid for work performed or for paid vacation during the payroll period immediately preceding the expiration of a collective-bargaining agreement or the commencement of a strike; provided, however, that in no event shall the board afford eligibility to any such striker who has not performed any services for the employer during the 36-month period immediately preceding the effective date of this part.

1157.2. In any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election.

1157.3. Employers shall maintain accurate and current payroll lists containing the names and addresses of all their employees, and shall make such lists available to the board upon request.

1158. Whenever an order of the board made pursuant to Section 1160.3 is based in whole or in part upon the facts certified following an investigation pursuant to Sections 1156.3 to 1157.2 inclusive, and there is a petition for review of such order, such certification and the record of such investigation shall be included in the transcript of the entire record required to be filed under Section 1160.8 and thereupon the decree of the court enforcing, modifying, or setting aside in whole or in part the order of the board shall be made and entered upon the pleadings, testimony, and proceedings set forth in such transcript.

1159. In order to assure the full freedom of association, self-organization, and designation of representatives of the employees own choosing, only labor organizations certified pursuant to this part shall be parties to a legally valid collective-bargaining agreement.

CHAPTER 6. PREVENTION OF UNFAIR LABOR PRACTICES AND JUDICIAL REVIEW AND ENFORCEMENT

1160. The board is empowered, as provided in this chapter, to prevent any person from engaging in any unfair labor practice, as set forth in Chapter 4 (commencing with Section 1153) of this part.

1160.2. Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the board, or any agent or agency designated by the board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the board or a member thereof, or before a designated agency or agencies, at a place therein fixed, not less than five days after the serving of such complaint. No complaint shall issue based upon any unfair labor practice occurring more than six months prior to the filing of the charge with the board and the service of a copy thereof upon the person against whom such charge is made, unless the person aggrieved thereby was prevented from filing such charge by reason of service in the armed forces, in which event the six-month period shall be computed from the day of his discharge. Any such complaint may be amended by the member, agent, or agency conducting the hearing, or the board in its discretion, at any time prior to the issuance of an order based thereon. The person so complained against shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent, or agency conducting the hearing or the board, any other person may be allowed to intervene in the proceeding and to present testimony. Any such proceeding shall, so far as practicable, be conducted in accordance with the Evidence Code. All proceedings shall be appropriately reported.

1160.3. The testimony taken by such member, agent, or agency, or the board in such hearing shall be reduced to writing and filed with the board. Thereafter, in its discretion, the board, upon notice, may take further testimony or hear argument. If, upon the preponderance of the testimony taken, the board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, the board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, to take affirmative action, including reinstatement of employees with or without backpay, and making employees whole, when the board deems such relief appropriate, for the loss of pay resulting from the employer's refusal to bargain, and to provide such other relief as will effectuate the policies of this part. Where an order directs reinstatement of an employee, backpay may be required of the employer or labor organization, as the case may be, responsible for the discrimination suffered by him. Such order may further require such person to make reports from time to time showing the

extent to which it has complied with the order. If, upon the preponderance of the testimony taken, the board shall be of the opinion that the person named in the complaint has not engaged in or is not engaging in any unfair labor practice, the board shall state its findings of fact and shall issue an order dismissing the complaint. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any backpay, if such individual was suspended or discharged for cause. In case the evidence is presented before a member of the board, or before an administrative law officer thereof, such member, or such administrative law officer, as the case may be, shall issue and cause to be served on the parties to the proceedings a proposed report, together with a recommended order, which shall be filed with the board, and, if no exceptions are filed within 20 days after service thereof upon such parties, or within such further period as the board may authorize, such recommended order shall become the order of the board and become effective as therein prescribed.

Until the record in a case shall have been filed in a court, as provided in this chapter, the board may, at any time upon reasonable notice and in such manner as it shall deem proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

1160.4. The board shall have power, upon issuance of a complaint as provided in Section 1160.2 charging that any person has engaged in or is engaging in an unfair labor practice, to petition the superior court in any county wherein the unfair labor practice in question is alleged to have occurred, or wherein such person resides or transacts business, for appropriate temporary relief or restraining order. Upon the filing of any such petition, the board shall cause notice thereof to be served upon such person, and thereupon the court shall have jurisdiction to grant to the board such temporary relief or restraining order as the court deems just and proper.

1160.5. Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (4) of subdivision (d) of Section 1154, the board is empowered and directed to hear and determine the dispute out of which such unfair labor practice shall have arisen, unless within 10 days after notice that such charge has been filed, the parties to such dispute submit to the board satisfactory evidence that they have adjusted, or agreed upon methods for the voluntary adjustment of the dispute. Upon compliance by the parties to the dispute with the decision of the board or upon such voluntary adjustment of the dispute, such charge shall be dismissed.

1160.6. Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of paragraph (1), (2), or (3) of subdivision (d), or of subdivision (g), of Section 1154, or of Section 1155, the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred. If, after such investigation, the officer or regional attorney to whom the

matter may be referred has reasonable cause to believe such charge is true and that a complaint should issue, he shall, on behalf of the board, petition the superior court in the county in which the unfair labor practice in question has occurred, is alleged to have occurred, or where the person alleged to have committed the unfair labor practice resides or transacts business, for appropriate injunctive relief pending the final adjudication of the board with respect to the matter. The officer or regional attorney shall make all reasonable efforts to advise the party against whom the restraining order is sought of his intention to seek such order at least 24 hours prior to doing so. In the event the officer or regional attorney has been unable to advise such party of his intent at least 24 hours in advance, he shall submit a declaration to the court under penalty of perjury setting forth in detail the efforts he has made. Upon the filing of any such petition, the superior court shall have jurisdiction to grant such injunctive relief or temporary restraining order as it deems just and proper. Upon the filing of any such petition, the board shall cause notice thereof to be served upon any person involved in the charge and such person, including the charging party, shall be given an opportunity to appear by counsel and present any relevant testimony. For the purposes of this section, the superior court shall be deemed to have jurisdiction of a labor organization either in the county in which such organization maintains its principal office, or in any county in which its duly authorized officers or agents are engaged in promoting or protecting the interests of employee members. The service of legal process upon such officer or agent shall constitute service upon the labor organization and make such organization a party to the suit. In situations where such relief is appropriate, the procedure specified herein shall apply to charges with respect to paragraph (4) of subdivision (d) of Section 1154.

1160.7. Whenever it is charged that any person has engaged in an unfair labor practice within the meaning of subdivision (c) of Section 1153 or subdivision (b) of Section 1154, such charge shall be given priority over all other cases except cases of like character in the office where it is filed or to which it is referred and cases given priority under Section 1160.6.

1160.8. Any person aggrieved by the final order of the board granting or denying in whole or in part the relief sought may obtain a review of such order in the court of appeal having jurisdiction over the county wherein the unfair labor practice in question was alleged to have been engaged in, or wherein such person resides or transacts business, by filing in such court a written petition requesting that the order of the board be modified or set aside. Such petition shall be filed with the court within 30 days from the date of the issuance of the board's order. Upon the filing of such petition, the court shall cause notice to be served upon the board and thereupon shall have jurisdiction of the proceeding. The board shall file in the court the record of the proceeding, certified by the board within 10 days after the clerk's notice unless such time is extended by the court for good

cause shown. The court shall have jurisdiction to grant to the board such temporary relief or restraining order it deems just and proper and in like manner to make and enter a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part, the order of the board. The findings of the board with respect to questions of fact if supported by substantial evidence on the record considered as a whole shall in like manner be conclusive.

An order directing an election shall not be stayed pending review, but such order may be reviewed as provided in Section 1158.

If the time for review of the board order has lapsed, and the person has not voluntarily complied with the board's order, the board may apply to the superior court in any county in which the unfair labor practice occurred or wherein such person resides or transacts business for enforcement of its order. If after hearing, the court determines that the order was issued pursuant to procedures established by the board and that the person refuses to comply with the order, the court shall enforce such order by writ of injunction or other proper process. The court shall not review the merits of the order.

1160.9. The procedures set forth in this chapter shall be the exclusive method of redressing unfair labor practices.

CHAPTER 7. SUITS INVOLVING EMPLOYERS AND LABOR ORGANIZATIONS

1165. (a) Suits for violation of contracts between an agricultural employer and an agricultural labor organization representing agricultural employees, as defined in this part, or between any such labor organizations, may be brought in any superior court having jurisdiction of the parties, without respect to the amount in controversy.

(b) Any agricultural labor organization which represents agricultural employees and any agricultural employer shall be bound by the acts of its agents. Any such labor organization may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of this state. Any money judgment against a labor organization in a superior court shall be enforceable only against the organization as an entity and against its assets, and shall not be enforceable against any individual member or his assets.

1165.2. For the purpose of this part, the superior court shall have jurisdiction over a labor organization in this state if such organization maintains its principal office in this state, or if its duly authorized officers or agents are engaged in representing or acting for employee members.

1165.3. The service of summons, subpoena, or other legal process of any superior court upon an officer or agent of a labor organization, in his capacity as such, shall constitute service upon the labor organization.

1165.4. For the purpose of this part, in determining whether any

person is acting as an agent of another person so as to make such other person responsible for his acts, the question of whether the specific acts performed were actually authorized or subsequently ratified shall not be controlling.

CHAPTER 8. LIMITATIONS

1166. Nothing in this part, except as specifically provided for herein, shall be construed so as either to interfere with or impede or diminish in any way the right to strike, or to affect the limitations or qualifications on such right.

1166.2. Nothing in this part shall prohibit any individual employed as a supervisor from becoming or remaining a member of a labor organization, but no employer subject to this part shall be compelled to deem individuals defined herein as supervisors as employees for the purpose of any law, either national or local, relating to collective bargaining.

1166.3. (a) If any provision of this part, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this part, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(b) If any other act of the Legislature shall conflict with the provisions of this part, this part shall prevail.

SEC. 3. No appropriation is made by this act, nor is any obligation created thereby under Section 2231 of the Revenue and Taxation Code, for the reimbursement of any local agency for any costs that may be incurred by it in carrying on any program or performing any service required to be carried on or performed by it by this act.

RESOLUTION CHAPTER 1

Senate Concurrent Resolution No. 1—Relative to the Joint Rules of the Senate and Assembly.

[Filed with Secretary of State May 22, 1975.]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Temporary Joint Rules of the Senate and Assembly for the 1975–76 Regular Session, except for Joint Rules 51, 55, 61, and that provision of 62(a) requiring notice of a hearing on a bill be published in the Daily File, be, and the same are hereby, adopted as the Joint Rules of the Senate and Assembly for the 1975–76 Third Extraordinary Session.

RESOLUTION CHAPTER 2

Senate Concurrent Resolution No. 2—Relative to final adjournment of the 1975–76 Third Extraordinary Session of the Legislature.

[Filed with Secretary of State May 29, 1975]

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the 1975–76 Third Extraordinary Session of the Legislature of the State of California shall adjourn sine die on adjournment on May 29, 1975.